No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Harold Bennie Kaeding,

Petitioner,

v.

United States of America,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

Karen Mohrlant (#388093)
Counsel of Record for Petitioner
F. Clayton Tyler, P.A.
Suite 230
331 Second Avenue South
Minneapolis, MN 55401
kmohrlant@fctyler.com
Phone: 612-333-7309

Question Presented

Whether this Court should adopt a bright-line rule that interrogations which are conducted during the execution of a residential search warrant are custodial and require *Miranda* warnings.

Parties

Petitioner Harold Bennie Kaeding was the appellant below. Respondent United States of America was the appellee below.

Proceedings Directed Related to This Case

- *United States v. Harold Bennie Kaeding*, 21-CR-169 (ECT/JFD), District of Minnesota; Judgment filed 11/18/2024
- *United States v. Harold Bennie Kaeding*, 24-3462, Eighth Circuit Court of Appeals; Judgment and Opinion filed 3/27/2026
- *United States v. Harold Bennie Kaeding*, 24-3462, Eighth Circuit Court of Appeals; Order denying petition for rehearing filed 6/4/2026
- *Harold Bennie Kaeding v. United States*, 26A158, United States Supreme Court; Application granted extending the time to file petition for writ of certiorari to November 1, 2026 filed 8/5/2026

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Opinions Below

The opinion of the court of appeals is published, reported at *United States v. Harold Bennie Kaeding*, 170 F.4th 1094 (8th Cir. 2026[1]), and reproduced on page A-1 of the Appendix. The order denying rehearing is unpublished, can be found at *United States v. Harold Bennie Kaeding*, 2026 U.S. App. LEXIS 16295, 2026 LX 220013, 2026 WL 1602113 (8th Cir. 2026), and is reproduced on page A-46 of the Appendix.

The order of the district court denying Mr. Kaeding's motion to suppress is unpublished, can be found at *United States v. Harold Bennie Kaeding*, 2024 U.S. Dist. LEXIS 26704, 2024 LX 254221, 2024 WL 626886 (D. Minn. 2024), and is reproduced on page A-22 of the Appendix. The report and recommendation of the magistrate judge is unpublished, can be found at *United States v. Harold Bennie Kaeding*, 2023 U.S. Dist. LEXIS 235273, 2023 WL 9659519 (D. Minn. 2023), and is reproduced on page A-24 of the Appendix.

[1] There is a typographical error in the opinion, indicating it was filed on March 27, 2025. It was actually filed on March 27, 2026.

Jurisdiction

The judgment of the Eighth Circuit Court of Appeals was entered for this case on March 27, 2026. A timely petition for rehearing was denied by the appellate court on June 4, 2026. On August 5, 2026, this Court entered an order extending the deadline to file a petition for writ of certiorari to November 1, 2026.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

Constitutional Provision

U.S. Const. Amend. V:

No person … shall be compelled in any criminal case to be a witness against himself

Statement of the Case

Shortly after 6:00 in the morning on January 13, 2021, law enforcement executed a warrant they had previously obtained to search a residence in Eden Prairie, Minnesota. The investigation concerned potential loan fraud relating to the Paycheck Protection Program (PPP), which had been part of the federal response to the COVID-19 pandemic. Multiple loan applications had been discovered linked to the address and to individuals who resided there, including Petitioner Harold Bennie Kaeding, his wife, and his adult son.

The warrant was executed by a team of 17 people, about five or six of whom approached the door. The lead investigator knocked and announced their presence. Mr. Kaeding's wife came to the door, but when the investigator showed her his credentials through the window, she turned and ran. Agents opened the door with a ram, then went room-to-room with their firearms dawn and gathered all of the occupants of the home together. At least some of the people were initially handcuffed. The agents holstered their firearms, explained that they had a search warrant, and indicated that they would like to interview some of the people.

Mr. Kaeding was interviewed by the lead investigator and a forensic accountant. At no point was he given a *Miranda* warning. The interview was conducted in the dining room, which was adjacent to the living room where the occupants had been gathered. It occurred approximately 35 minutes after agents made entry and five minutes after they finished securing the residence. Mr. Kaeding was not handcuffed during the interview, firearms were not drawn (though they may have been displayed), and no violence or threats were used. The lead investigator did tell Mr. Kaeding that he did not have to talk to them, but that if he did he needed to tell the truth because lying to the FBI is a crime. He told Mr. Kaeding that he was not under arrest and would not be arrested unless evidence of another crime was located. He also told Mr. Kaeding that he was "free to leave the house until we're done with the search warrant."

Mr. Kaeding submitted to the interrogation, although he did not answer all of the agents' questions. The lead investigator testified that the interview was cordial and ended when the interviewers ran out of questions. Following the interview, Mr. Kaeding returned to the living

room. When agents completed their search, they left the residence. Nobody was placed under arrest.

Mr. Kaeding was initially indicted on one count of wire fraud in violation of 18 U.S.C. § 1343 and one count of money laundering in violation of 18 U.S.C. § 1957; two additional counts of wire fraud and three counts of aggravated identity theft in violation of 18 U.S.C. § 1028A(a)(1) were later added. The district court had jurisdiction pursuant to 18 U.S.C. § 3231 because Mr. Kaeding was charged with offenses against the laws of the United States. Mr. Kaeding made a motion to suppress his statements to investigators, arguing that they were the product of custodial interrogation conducted without the benefit of *Miranda* warnings. The District Court denied that motion, concluding that the interrogation was not custodial.

The case proceeded to trial. The Government's introduced evidence of statements made by Mr. Kaeding during the January 13, 2021 interrogation through testimony and clips from the audio recording. The jury ultimately returned guilty verdicts on all counts. Mr. Kaeding was convicted and sentenced accordingly.

Mr. Kaeding filed a timely notice of appeal. The Eighth Circuit Court of Appeals had jurisdiction pursuant to 28 U.S.C. § 1291. In a published opinion, a panel of that court affirmed the District Court. Despite acknowledging the police domination of the home due to the execution of the warrant, the appellate court similarly concluded that Mr. Kaeding's interrogation was not custodial. Mr. Kaeding filed a timely petition for rehearing, which was denied. Because his case exemplifies the disparate treatment and split of authorities which has arisen, he is asking this Court to grant a writ of certiorari to adopt a bright-line rule that interrogations conducted during the execution of residential search warrants are custodial, and to reverse the judgment in his case accordingly.

Argument for Granting the Petition

There is a circuit split causing disparate results when the question is whether an interrogation conducted in a person's home during the execution of a search warrant is custodial within the meaning of *Miranda*, which should be settled by this Court. Specifically, this Court should promote nationwide consistency in the application of *Miranda* by adopting a limited bright-line rule that interrogations conducted during the execution of a residential search warrant are custodial.

An advisory of rights is required before law enforcement interrogate a person who "has been taken into custody or otherwise deprived of his freedom of action in any significant way." *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). The reason for this rule is that "the coercion inherent in custodial interrogation blurs the line between voluntary and involuntary statements, and thus heightens the risk" of compelled self-incrimination. *Dickerson v. United States*, 530 U.S. 428, 435 (2000).

Whether an interrogation was custodial is an objective inquiry which asks, in light of the circumstances surrounding the interrogation:

"would a reasonable person have felt he or she was at liberty to terminate the interrogation and leave." *J.D.B. v. North Carolina*, 564 U.S. 261, 270 (2011) (quotation and citations omitted). The ultimate question is whether there was "a formal arrest or restraint on freedom of movement of the degree associated with formal arrest." *Id.* (quotation and citations omitted). This Court has consistently "required police officers and courts to examine all of the circumstances surrounding the interrogation, including any circumstance that would have affected how a reasonable person in the suspect's position would perceive his or her freedom to leave" without specifying a list of relevant circumstances. *Id.* at 270-71 (quotations omitted). This has resulted in a divergence not just in practice but in binding precedent when the circumstances include an in-home interrogation conducted contemporaneously with the execution of a search warrant.

The conflict is not that the circuits are applying different tests. Rather, the conflict lies in how the circuit courts have operationalized the totality-of-the circumstances test. And the consequence is that different results are being reached in different circuits – a divergence exemplified by the approaches of the Eighth and Ninth Circuits.

In *United States v. Craighead*, the Ninth Circuit Court of Appeals explicitly confronted the question of "how to apply the traditional *Miranda* inquiry to an in-home interrogation." 539 F.3d 1073, 1083 (9th Cir. 2008). The court noted that "courts have generally been much less likely to find that an interrogation in the suspect's home was custodial in nature" because the "compulsion that concerned the Court in *Miranda* is less likely to be present where the suspect is in familiar surroundings." *Id.* (citations omitted). But it also noted:

> If a reasonable person is interrogated inside his own home and is told he is "free to leave," where will he go? The library? The police station? He is already in the most constitutionally protected place on earth. To be "free" to leave is a hollow right if the one place the suspect cannot go is his own home. Similarly, a reasonable person interrogated inside his own home may have a different understanding of whether he is truly free "to terminate the interrogation" if his home is crawling with law enforcement agents conducting a warrant-approved search. He may not feel that he can successfully terminate the interrogation if he knows that he cannot empty his home of his interrogators until they have completed their search.

Id. (citation omitted); *see also Michigan v. Summers*, 452 U.S. 692, 701 (1981) (noting that during the execution of a residential search warrant "most citizens – unless they intend flight to avoid arrest – would elect to remain in order to observe the search of their possessions"). The Ninth

Circuit adopted "'police-dominated atmosphere' as the benchmark for custodial interrogations in locations outside of the police station." *Craighead,* 539 F.3d at 1083. The court explained:

> We understand that in many cases, when law enforcement agents conduct an in-home interrogation while conducting a lawful search of the home, physical control of the suspect will be necessary to preserve evidence and protect the safety of the agents. The fact that these precautions may be necessary to the success of the lawful search does not lessen their tendency to make a reasonable person believe he is in custody.

Id. at 1086. The court went on to conclude that, notwithstanding the fact that Mr. Craighead was advised that he was free to leave, the interrogation was custodial. *Id.* at 1089. It explained: "The *Miranda* test for custody does not ask whether the suspect was *told* that he was free to leave; the test asks whether a reasonable person would have *felt* he or she was not at liberty to terminate the interrogation and leave." *Id.* at 1088 (quotation omitted) (emphasis in original).

In contrast, the Eighth Circuit Court of Appeals has given very little weight to whether the environment of an in-home interrogation was dominated by the police. Despite "overwhelming police presence" in a defendant's home, the Eighth Circuit nevertheless concluded that the interrogation was noncustodial, explaining: "Any warrant search is

inherently police dominated; there is nothing untoward about that circumstance." *United States v. Perrin*, 659 F.3d 718, 721 (8th Cir. 2011). In at least one case, it reversed a suppression order, concluding that the district court "gave too much weight" to "the 'police-dominated' environment resulting from execution of the search warrant." *United States v. Williams*, 760 F.3d 811, 815 (8th Cir. 2014). The court explained:

> Searching investigators typically come armed and in groups of sufficient number to ensure officer safety. Force is used to enter when no resident is present or the occupants refuse to answer after a knock and announcement. … *Miranda* applies only when the circumstances approximate a formal arrest, and execution of a search warrant is not an arrest.

Id. at 815. The Eighth Circuit has gone so far as to conclude that an interrogation was noncustodial when the suspect was detained while a search warrant was executed at his home. *United States v. Roberts*, 975 F.3d 709, 716-17 (8th Cir. 2020) (concluding that indicia of custody, including that the police were "there in numbers and armed; the place to be searched had to be forcefully entered when no one responded; and Roberts when he emerged was flex-cuffed and escorted away from the

premises for the officers' and his own safety" were outweighed by officers' assurances that "he was not under arrest, that he did not need to talk to the officers, and that he could stop at any time").

But simply acknowledging that "Police inevitably 'dominate' the atmosphere in some sense while they are conducting a search," *Williams*, 760 F.3d at 815, disregards the effect this domination has on the resident. In other words, something can be both typical police procedure when viewed from the perspective of an experienced criminal justice professional and leave a reasonable ordinary citizen feeling restrained to a degree they associate with formal arrest.

The disparity in the weight given to the police-dominated atmosphere created by the execution of a search warrant is exacerbated by the outsized weight the Eighth Circuit Court of Appeals gives to the provision of advisories that the suspect is not under arrest and may terminate the interrogation. It has long held that the "most obvious and effective means of demonstrating" that an interrogation is noncustodial "is for the police to inform the suspect that an arrest is not being made and that the suspect may terminate the interview at will." *United*

States v. Griffin, 922 F.2d 1343, 1349 (8th Cir. 1990). The Eighth Circuit would later explain:

> While advising someone that he or she is not under arrest helps to mitigate an interview's custodial nature, an explicit assertion that the person may end the encounter is stronger medicine. Such a statement provides an individual with a clear understanding of his or her rights and generally removes any custodial trappings from the questioning.

United States v. Ollie, 442 F.3d 1135, 1138 (8th Cir. 2006). Within a few years, the Eighth Circuit would reiterate that admonitions that an individual could leave and did not have to answer questions were "weighty in the custody analysis" and note: "we have never held that a person was in custody after receiving them." *Perrin*, 659 F.3d at 721.

The effect of these different approaches and divergent lines of binding precedent is that which circuit it occurred in is now a factor which impacts the result when the question is whether an interrogation conducted during the execution of a residential search warrant is custodial. Courts are regularly confronting similar fact patterns – numerous officers executing a search warrant, taking control of a home, and interrogating occupants – but reaching differing results. The facts in this case – the execution of a residential search warrant early on a

winter morning, forced entry to the home, presence of over a dozen officers, escorts around the home, and separation from other occupants – is not an outlier within the Eighth Circuit, but is difficult to square with similar cases in other circuits. *See e.g. United States v. Cavazos*, 668 F.3d 190, 194 (5th Cir. 2012) (concluding interrogation was custodial when "Just after 5:30 a.m., [the suspect] was awakened from his bed, identified and handcuffed, while more than a dozen officers entered and searched his home; he was separated from his family and interrogated by two federal agents for at least an hour[;] he was informed he was free to use the bathroom or get a snack, but followed and monitored when he sought to do so; and he was allowed to make a phone call, but only when holding the phone so that the agents could overhear the conversation" despite an advisory that the interview was "non-custodial"); *United States v. Mittel-Carey*, 493 F.3d 36, 40 (1st Cir. 2007) (concluding interrogation was custodial when the suspect was "awakened at 6:25 AM by law enforcement officers (one with an unholstered gun), … interrogated for up to two hours and not permitted freedom of movement within his own home"); *United States v. McKany*, 649 Fed. Appx. 553, 554-55 (9th Cir. 2016) (unpublished) (reversing

denial of motion to suppress; concluding that despite being advised he was free to leave or terminate the interview, the suspect was in custody when "officers swarmed into [his] home at 6:30 a.m. in full tactical gear and with guns drawn" to execute a search warrant, he was handcuffed and escorted through the home, and he was separated from family).

Constructional protections should not turn on geography. This Court's attention is warranted to address these discrepancies and ensure consistent application of *Miranda* across the circuits. A bright-line rule, narrowly limited to the circumstance of interrogations conducted during the execution of a residential search warrant, would ensure consistency of results. It would also provide a balance between the government's interests and individuals' constitutional rights. As the First Circuit Court of Appeals explained:

> If the government is correct that the agents' actions were necessary for evidence preservation and officer safety, then it could have chosen to postpone the interrogation until a non-custodial moment, or to Mirandize [the suspect]. Either step would have protected both the defendant's constitutional rights and the officers' legitimate law enforcement needs.

Mittel-Carey, 493 F.3d at 40. Finally, a bright-line rule would also provide clear guidance to law enforcement, attorneys, and courts, and reducing litigation in these limited circumstances.

Conclusion

To remedy the inconsistent application of the totality-of-the-circumstances test for custody, this Court should adopted a carefully limited bright-line rule that interrogations conducted during the execution of a residential search warrant require *Miranda* warnings. Because Mr. Kaeding was subjected to custodial interrogation without the benefit of such warnings, his conviction should be vacated and this case should be remanded.

Respectfully submitted,

Dated: October 29, 2026

/s/ Karen Mohrlant
Karen Mohrlant (#388093)
Counsel of Record for Petitioner
F. Clayton Tyler, P.A.
Suite 230
331 Second Avenue South
Minneapolis, MN 55401
kmohrlant@fctyler.com
Phone: 612-333-7309