No. _____

IN THE

Supreme Court of the United States

CHRISTIN CAMPBELL-MARTIN AND ADAM LEIVA,

Petitioners,

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

Anne Marie Lofaso
WEST VIRGINIA UNIVERSITY COLLEGE OF LAW
U.S. SUPREME COURT LITIGATION CLINIC
101 Law Center Drive
Morgantown, WV 26056

Lawrence D. Rosenberg
Counsel of Record
Andrew J. M. Bentz
JONES DAY
51 Louisiana Ave., NW
Washington, DC 20001
(202) 879-3939
ldrosenberg@jonesday.com

Counsel for Petitioners
(additional counsel listed on inside cover)

(continued from front cover)

Webb Wassmer
WASSMER LAW
OFFICE, PLC
5320 Winslow Road
Marion, IA 52302

Counsel for Petitioner Campbell-Martin

Mark Meyer
425 2nd Street SE
Suite 1250
Cedar Rapids, IA 52401

Counsel for Petitioner Leiva

QUESTION PRESENTED

In *Arizona v. Gant*, this Court held, "Police may search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest." 556 U.S. 332, 351 (2009). In *Davis v. United States*, 564 U.S. 229, 236 (2011), this Court affirmed the Eleventh Circuit's conclusion that this rule does not permit a vehicle search incident to arrest when police officers have arrested a recent occupant for providing false identification, secured the arrestee in a police car, and established the arrestee's identity.

Here, Petitioners were in a parked car, when a police officer approached and asked the two for identification. Petitioners both gave false names. After learning Petitioners' true identities, the police arrested them for giving false identification and secured them in the back of police cars. The police then searched the vehicle and discovered methamphetamine. The question presented is:

Whether police may search a vehicle incident to arrest when the officers have arrested a recent occupant for providing false identification, secured the arrestee in a police car, and established the arrestee's identity.

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

The parties to the proceeding below were Petitioners Christin Campbell-Martin and Adam Scott Leiva, and Respondent the United States of America. There are no nongovernmental corporate parties requiring a disclosure statement under Supreme Court Rule 29.6.

RELATED PROCEEDINGS

United States District Court (N.D. Iowa):

United States v. Adam Scott Leiva, No. 1:19-cr-00079-1 (Oct. 8, 2020)

United States v. Christin Campbell-Martin, No. 1:19-cr-00079-2 (Oct. 1, 2020)

United States Court of Appeals (8th Cir.):

United States v. Christin Campbell-Martin, No. 20-3054 (Nov. 8, 2021)

United States v. Adam Scott Leiva, No. 20-3181 (Nov. 8, 2021)

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page(s)

CASES

TABLE OF AUTHORITIES
(continued)

Page(s)

TABLE OF AUTHORITIES
(continued)

Page(s)

CONSTITUTIONAL AND STATUTORY AUTHORITIES

OTHER AUTHORITIES

TABLE OF AUTHORITIES
(continued)

Page(s)

INTRODUCTION

The decision below directly conflicts with this Court's precedents, and deepens a split among lower courts on an issue of exceptional importance.

Under the Fourth Amendment, warrantless searches are presumptively unconstitutional. There are exceptions, of course, including for searches incident to arrest. When a vehicle is involved, officers may search the vehicle incident to arrest only if the suspect can access the vehicle or there is a reasonable prospect of finding evidence of the crime of arrest. *Arizona v. Gant*, 556 U.S. 332, 351 (2009). This case asks whether officers can search a car after arresting a suspect for providing false identification, even if the officers have verified the suspect's identity and secured him in a police car.

If this issue sounds familiar, it's because this Court has seen these facts before: An officer asks a driver for identification. The driver gives a false name, but the officer soon uncovers the lie; the driver reveals his identity, which the officer verifies. Still, the officer arrests the dissembling driver and places him in the squad car. The officer then returns and searches the car. *Davis v. United States*, 564 U.S. 229 (2011).

That search is unconstitutional. The driver cannot access the vehicle, so there's no concern for officer safety or evidence preservation. And there's no reasonable probability of finding evidence of the crime of arrest. The offense is over: the arrestee already gave the false identification and the officer has confirmed the driver's identity. This is not like a drug crime, where there could be more contraband in the car.

It is thus unsurprising that this Court concluded that such a search was unconstitutional in *Davis*. That case matches the facts above to a T. Though the issue in that case was whether the good-faith exception to the exclusionary rule applied, this Court explicitly stated, "[T]he search turned out to be unconstitutional." *Id.* at 239–40. Indeed, there would have been no need to invoke the good-faith exception if the search had been constitutional in the first place.

Nonetheless, the court below disregarded *Davis* and the Fourth Amendment. In this case, the Eighth Circuit held (with little explanation and no mention of *Davis*) that officers may search a car incident to arrest even if the crime of arrest is providing false identification and the officer has already verified the person's identity. Not only does that conflict with this Court's precedents, but it also deepens an existing conflict among the lower courts, including several federal courts of appeals and the Colorado Supreme Court. The constitutionality of a search should not turn on the state in which it occurs. Yet it does. If the driver is arrested in Iowa, the police can search the car. But if the driver is arrested in Georgia, the police cannot.

This issue is also important and recurring. It is important to the millions of drivers and passengers stopped by the police each year and to law enforcement as well. And, unsurprisingly given the number of traffic stops each year, this issue arises regularly.

Because the opinion below conflicts with this Court's decisions as well as decisions from other courts over an important and recurring issue, this Court should answer the question presented.

OPINIONS BELOW

The court of appeals' opinion is reported at 17 F.4th 807 and reproduced at App. 1a–18a. The district court's opinion is unpublished but available at 2020 WL 556400 and reproduced at App. 19a–60a.

JURISDICTION

The court of appeals affirmed the district court's judgment on November 8, 2021. App 1a. On February 1, 2022, Justice Kavanaugh extended the time to file this petition until April 7, 2022. No. 21A378 (U.S.). This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

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

> 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

1. The Fourth Amendment protects against "unreasonable searches and seizures." Ordinarily, government searches to uncover criminal wrongdoing require a warrant supported by probable cause. *Riley v. California*, 573 U.S. 373, 382 (2014). "In the absence of a warrant, a search is reasonable only if it falls within a specific exception to the warrant requirement." *Id.* One exception is the search incident to arrest. *Chimel v. California*, 395 U.S. 752, 762–63 (1969).

a. In *Chimel*, this Court held that a government official making a lawful arrest may conduct a contemporaneous warrantless search of the arrestee's person and anything within the arrestee's immediate control. *Id.* The Court defined an arrestee's immediate surrounding area as "the area … within which [the arrestee] might gain possession of a weapon or destructible evidence." *Id.* at 763. The Court offered two justifications: (1) to ensure officer safety by removing "any weapons that the [arrestee] might seek to use in order to resist arrest or effect his escape," and (2) to prevent the arrestee from concealing or destroying evidence. *Id.* The Court emphasized that "[a] search must be strictly tied to and justified by the circumstances which rendered its initiation permissible." *Id.*

b. In *New York v. Belton*, this Court first addressed how the search-incident-to-arrest exception applies in the automobile context. 453 U.S. 454 (1981). The Court held that the exception could apply when the arrestee is in a vehicle. The Court reasoned "that articles inside the relatively narrow compass of the passenger compartment of an automobile are in fact generally, even if not inevitably, within 'the area into which an arrestee might reach in order to grab a weapon or evidentiary ite[m].'" *Id.* at 460 (quoting *Chimel*, 395 U.S. at 763). Following this rationale, the Court held that police officers who arrest a vehicle occupant can make a contemporaneous search of the entire passenger compartment of the automobile. *Id.* at 462–63. The Court made clear, however, that its holding in *Belton* "in no way alters the fundamental principles established in the *Chimel* case regarding the basic scope of searches incident to lawful custodial arrests." *Id.* at 460 n.3.

Some lower courts, however, misunderstood *Belton*. *See Gant*, 556 U.S. at 342. Those courts began allowing vehicle searches any time the arrestee was a recent occupant, even if there was no possibility the arrestee could access the vehicle during the search.

c. In *Gant*, the Court clarified that this was not the rule. *Id.* at 343. Warrantless searches, the Court explained, are reasonable only if tethered to "the justifications underlying" the relevant exception to the warrant requirement. *Id.* Thus, the Court reiterated what *Chimel* had first held, "a search incident to arrest may only include 'the arrestee's person and the area "within his immediate control."'" *Id.* at 339. That limitation "ensures that the scope of a search incident to arrest is commensurate with its purposes." *Id.* But "[i]f there is no possibility that an arrestee could reach into the [passenger compartment of the car], both justifications for the search-incident-to-arrest exception are absent and the rule does not apply." *Id.*

The Court then said, "Although it does not follow from *Chimel*, we also conclude that circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is 'reasonable to believe evidence *relevant to the crime of arrest* might be found in the vehicle.'" *Id.* at 343 (emphasis added). *Gant* cited two examples: *Belton*, 453 U.S. 454, and *Thornton v. United States*, 541 U.S. 615 (2004). In both cases, the suspects were arrested for drug possession. The *Gant* Court cautioned that "[i]n many cases, as when a recent occupant is arrested for a traffic violation, there will be no reasonable basis to believe the vehicle contains relevant evidence." 556 U.S. at 343.

d. This Court's latest decision involving a vehicle search incident to arrest was *Davis*, 564 U.S. 229. During a routine traffic stop, an officer asked the vehicle's passenger, Davis, for his name. After learning that Davis had given a false name, the officer arrested him. The officer returned to the vehicle and found a revolver in a jacket Davis had left behind. The Eleventh Circuit held that search violated the Fourth Amendment. The court wrote, "[*Gant*] makes clear that neither evidentiary nor officer-safety concerns justify a vehicle search under these circumstances." *United States v. Davis*, 598 F.3d 1259, 1263 (11th Cir. 2010). The court then held that the exclusionary rule did not apply because the search occurred before *Gant* was decided and officers relied on well-settled circuit precedent in conducting the search. *Id.* at 1264.

This Court affirmed. *Davis*, 564 U.S. at 236. And while the question presented was whether the exclusionary rule applied, this Court agreed with the Eleventh Circuit that the search was "unconstitutional under *Gant*." *Id.* at 239.

2. The court below, on materially identical facts, reached the opposite result, never even mentioning this Court's decision in *Davis*.

a. In May 2018, Petitioner Christin Campbell-Martin was driving an SUV with two passengers, Petitioner Adam Leiva and Justin Harris. Mr. Leiva was in the front passenger seat and Mr. Harris was in the back seat. App. 26a. The three were lost trying to find a hotel and pulled into a school parking lot. App. 30a. At the same time, Officer Nicole Hotz was patrolling the lot and asking anyone there to leave. App. 26a.

The school administration had asked her to keep teenagers from loitering. *Id.*

When Officer Hotz saw the SUV pull into the lot, she parked her patrol car and saw Ms. Campbell-Martin shielding her face with her hands, which Officer Hotz interpreted as Ms. Campbell-Martin trying to hide her face. App. 2a, 26a. Officer Hotz walked up to the SUV and saw Ms. Campbell-Martin acting "very nervous and fidgety." App. 3a. According to Officer Hotz, Ms. Campbell-Martin "kept pulling her knees to her chest and breathing really heavy," which suggested to Officer Hotz that Ms. Campbell-Martin might be under the influence of drugs. *Id.*

Officer Hotz then asked the three for identification. Ms. Campbell-Martin and Mr. Leiva gave false names. App. 3a–4a. Officer Hotz also asked them both for the last four digits of their social security numbers, which neither of them remembered. App. 3a. When Officer Hotz ran the name Mr. Leiva had provided, she discovered that it was false; so she arrested him for providing false information and placed him in a police car. *Id.*

Meanwhile, another officer, Sergeant Richard Holland, arrived. *Id.* He noticed a purse in the back seat and asked Ms. Campbell-Martin if he could search it. App. 28a. She refused, saying the purse belonged to the vehicle's owner. *Id.* Sergeant Holland then asked Harris to look for identification in the purse. *Id.* He rummaged around and found Ms. Campbell-Martin's identification, which stated her real name. App. 28a–29a. The officers arrested her and placed her in a police car. App. 29a. An officer also directed Mr. Harris to exit the car.

After all the occupants had left the car, Sergeant Holland searched the vehicle and found a backpack on the floor of the front-seat passenger area. App. 4a. Inside the backpack he found a bag of what he correctly suspected was drugs. The bag contained methamphetamine. *Id.*

b. The government indicted Petitioners on one count of possession with intent to distribute a controlled substance near a protected location and aiding and abetting the possession with intent to distribute. *Id.* Petitioners moved to suppress the drugs, arguing that the warrantless search of the vehicle and its contents was an unconstitutional search. *Id.* The magistrate judge held that the search incident to arrest exception was inapplicable. The judge explained, "The offense of providing false information differs significantly from the illegal possession cases the Supreme Court cited in *Gant*, and it does not provide a basis for a reasonable belief that the vehicle may contain further evidence of the offense." D. Ct. Dkt. 55, at 59. But the district court concluded otherwise and denied the motion. App. 4a. The court held that the search of the car was a valid search incident to arrest. *Id.*

Petitioners conditionally pleaded guilty, preserving their right to appeal the denial of the suppression motion. App. 4a–5a. The court sentenced Ms. Campbell-Martin to 200 months' imprisonment and 10 years' supervised release. App. 5a. The court sentenced Mr. Leiva to 235 months' imprisonment and 10 years' supervised release. *Id.*

c. The Eighth Circuit affirmed, holding that the search was a valid search incident to arrest. App. 18a.

In doing so, the court expressly disagreed with the Eleventh Circuit's decision in *Davis*, 598 F.3d 1259.

The Eighth Circuit explained, "Here, 'it [wa]s reasonable to believe that the vehicle contain[ed] evidence of the offense [of providing false identification information]." App. 11a. The court distinguished the situation in *Gant*. There, the Eighth Circuit explained, the defendant was arrested for driving with a suspended license. App. 11a–12a. "But this case," the Eighth Circuit said, "involves a different offense of arrest—the offense of providing false identification information—and it was reasonable to believe that the vehicle and the backpack contained evidence of the offense of providing false identification information." *Id.* And though "the officers already knew that Campbell-Martin and Leiva provided false identification, they did not have Leiva's actual identification, which would help prove that Leiva provided false identification." App. 12a.

In reaching this conclusion, the Eighth Circuit expressly disagreed with the Eleventh Circuit's decision in *Davis*, 598 F.3d 1259. As described above, that court said that a search incident to arrest for the offense of providing false identification was unconstitutional under *Gant*. *Id.* at 1263. In a single sentence of justification, the Eighth Circuit said, "Nothing in *Gant* prohibits the police from searching for additional evidence of an offense." App. 12a. The Eighth Circuit made no mention of this Court's decision affirming the Eleventh Circuit's decision in *Davis*. *See* 564 U.S. 229.

Instead, the court agreed with the Seventh Circuit's opinion in *United States v. Edwards*, 769 F.3d 509, 515 (7th Cir. 2014). There, officers arrested a

driver for driving a vehicle without the owner's consent. Ignoring this Court's decision in *Davis*, the court in *Edwards* held that the search-incident-to-arrest exception permitted officers to search the vehicle for evidence of the car's ownership even though the defendant had already admitted that someone else owned the car. *Id.* at 515. The defendant had argued that once the officers knew who owned the car, there was no justification to search the car. But the Seventh Circuit rejected that argument: "Evidence of a vehicle's ownership is *always* relevant to the crime of driving a vehicle without the owner's consent; registration and title documents are evidence of ownership and are often kept in a car. That's enough for a valid vehicle search incident to Edwards's arrest." *Id.*

The Eighth Circuit endorsed that reasoning saying that in this case, "'it [was] reasonable to believe the vehicle contain[ed] evidence of the offense of arrest' because police could have found evidence in the car and in the backpack relevant to the occupants providing false identification information, even though the officer already knew their real names." App. 12a–13a.

REASONS FOR GRANTING THE WRIT

I. The decision below conflicts with this Court's decisions, as well as decisions of other courts

The opinion below directly conflicts with this Court's decision in *Davis*, 564 U.S. 229. There, as here, the occupant of a vehicle was arrested for giving false identification. After the arrestee was secured, the officer went back to the car to search it. This Court ex-

plained that such a search was "unconstitutional under *Gant*." *Id.* at 239. But the court below, without even mentioning *Davis*, concluded the opposite.

Moreover, the opinion below deepens a conflict among lower courts. Both the U.S. Court of Appeals for the Eleventh Circuit and the Colorado Supreme Court have held that police may not search a vehicle incident to arrest when the suspect is arrested for providing false identification, secured in a police vehicle, and the police have already verified the suspect's identity. The Sixth and Tenth Circuits have reached the same conclusion regarding arrests for similar crimes (violating probation and driving with a suspended license). By contrast, the court below held that when a suspect is arrested for providing false identification, the police may search the car incident to that arrest, even if the police have secured the suspect in the squad car and know the suspect's identity. The Seventh Circuit reached the same conclusion when it comes to arrests for driving a car without the owner's consent.

This 4–2 split is outcome-determinative here, as it will be in most cases. Had Petitioners been prosecuted in the Eleventh Circuit or Colorado state court, the search would have been declared unconstitutional. The same would be true in the Sixth and Tenth Circuits. But because Petitioners were prosecuted in the Eighth Circuit, the search was deemed constitutional, the evidence admitted, and both sentenced to over sixteen years in prison.

A. The decision below directly conflicts with this Court's decision in *Davis*

The decision below is irreconcilable with this Court's opinions. Indeed, this Court confronted materially identical facts in *Davis*. All nine Justices concluded that the search in that case was unconstitutional. The result here should have been no different.

The Fourth Amendment prohibits "unreasonable searches and seizures." This Court has made clear that means that warrantless searches are "per se unreasonable," and presumptively unconstitutional. *Katz v. United States*, 389 U.S. 347, 357 (1967). There are a few "jealously and carefully drawn" exceptions to that rule, *Jones v. United States*, 357 U.S. 493, 499 (1958), including the one at issue here, a search incident to arrest.

That exception "derives from interests in officer safety and evidence preservation that are typically implicated in arrest situations." *Gant*, 556 U.S. at 338. In *Chimel*, this Court defined the boundaries of this exception, holding that a search incident to arrest may only include "the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence." 395 U.S. at 763. Those boundaries ensure that "the scope of a search incident to arrest is commensurate with its purposes of protecting arresting officers and safeguarding any evidence of the offense of arrest that an arrestee might conceal or destroy." *Gant*, 556 U.S. at 339 (explaining *Chimel*).

In *Gant*, this Court again clarified and circumscribed the scope of warrantless searches incident to

arrest. 556 U.S. 332. Some lower courts had held that officers could search a car anytime they arrested an occupant. *Id.* at 342. This Court firmly rejected that rule. Warrantless searches, this Court explained, are reasonable only if tethered to "the justifications underlying" the relevant exception to the warrant requirement. *Id.* at 343. But allowing "a vehicle search incident to every recent occupant's arrest would … untether the rule from the justifications underlying the *Chimel* exception." *Id.* Thus, the Court reiterated "that the *Chimel* rationale authorizes police to search a vehicle incident to a recent occupant's arrest only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search." *Id.*

The Court then held that "[a]lthough it does not follow from *Chimel*, we also conclude that circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is 'reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.'" *Id.* But the Court cautioned that "[i]n many cases," including in *Gant* itself where the suspect was arrested for driving with a suspended license, "there will be no reasonable basis to believe the vehicle contains relevant evidence." *Id.*

This Court then confronted the situation presented in this case in *Davis*. After arresting (and securing) Davis for giving a false name and determining his identity, the police searched the car he had been in. This Court concluded that the search was unconstitutional. Indeed, all nine Justices reached that conclusion. For example, the majority said, "[T]he search turned out to be unconstitutional under *Gant*." *Davis*, 564 U.S. at 239. The majority further explained, "The

Eleventh Circuit … applied *Gant*'s new rule and held that the vehicle search incident to [the defendant's] arrest 'violated [his] Fourth Amendment rights.' … As for whether *this constitutional violation* warranted suppression, the Eleventh Circuit viewed that as a separate issue." *Id.* at 236 (emphasis added); *see also id.* at 240 ("The officers who conducted the search did not violate Davis' Fourth Amendment rights deliberately, recklessly, or with gross negligence."). And even though dissenting, Justice Breyer (joined by Justice Ginsberg) wrote, "The Court today … concludes that *Gant*'s new rule applies here. And to that extent I agree with its decision." *Id.* at 253 (Breyer, J., dissenting).

It is true that the Court ultimately concluded that the evidence should not be suppressed because the good-faith exception to the exclusionary rule applied. But that does not change the fact that the search was unconstitutional. Not only did this Court explicitly say so repeatedly, but the Court's holding also rested on the conclusion that the search was unconstitutional. The only way the good-faith exception comes into play is if the underlying search is unconstitutional in the first place. In other words, had the search in *Davis* been constitutional, there would have been no need to invoke the good-faith exception. *See id.* at 236–40 (majority opinion).

The decision below directly conflicts with *Davis*. The facts are materially identical. The only justification for the searches in *Davis* and in this case was to search for evidence of the crime of arrest. This Court held that when the crime of arrest is providing false information, there is no reasonable prospect of finding evidence of that crime in the vehicle. *Id.* Thus, under

Davis (and *Gant* for that matter) the search in this case was unconstitutional. Nonetheless, the Eighth Circuit inexplicably reached the opposite conclusion. And it did so without acknowledging this Court's opinion in *Davis*. It is true that the Eighth Circuit mentioned the Eleventh Circuit's opinion in *Davis*, and "[r]espectfully … disagree[d] with the Eleventh Circuit's analysis." App. 12a. The Eighth Circuit is not, however, free to disregard this Court's opinions.

Perhaps the Eighth Circuit believed that this Court's conclusion in *Davis* that the search was unconstitutional was dicta. *See id.* Such a conclusion would blink reality. As discussed above, the only reason this Court reached the issue of the exclusionary rule was because the search was unconstitutional.

Regardless, the Eighth Circuit's opinion conflicts with this Court's pre-*Davis* opinions. *Gant* made clear that the scope of warrantless searches must be tethered to "the justifications underlying" the exceptions from the warrant rule. 556 U.S. at 343. The two justifications for warrantless searches of vehicles incident to arrest are (1) for officer safety and evidence preservation (that is, if the occupant can access the car) and (2) to find evidence of the crime of arrest. *Id.* But the Eighth Circuit's rule is "untether[ed]" from those justifications. *See id.* There was clearly no concern here for officer safety; the arrestees were secured in police vehicles. And there was no reasonable prospect of finding evidence of the crime of arrest—providing false information. *See infra* Part III.

In sum, the Eighth Circuit's opinion not only conflicts with this Court's opinion in *Davis*, but it is also irreconcilable with the rule set forth in *Gant*. This

Court should grant certiorari to circumscribe the limits of searches incident to arrest once again.

B. The decision below deepens a split over the search-incident-to-arrest doctrine

That the opinion below conflicts with this Court's decisions is enough to warrant this Court's review. But the Eighth Circuit has also deepened an existing split among the lower courts.

1. The U.S. Court of Appeals for the Eleventh Circuit and the Colorado Supreme Court have both held that a search in these precise circumstances is unconstitutional. In addition, the Sixth and Tenth Circuits have held searches unconstitutional in similar circumstances, demonstrating that they would agree with the Eleventh Circuit and Colorado Supreme Court.

a. After *Gant*, the first federal appellate case on this issue was the Eleventh Circuit's decision in *Davis*, 598 F.3d 1259. As already discussed, on facts materially identical to the ones here, the court held that the search was unconstitutional. The Eleventh Circuit explained that *Gant* "makes clear that neither evidentiary nor officer-safety concerns justify a vehicle search under these circumstances." *Id.* at 1263. "First, both [Davis] and the car's driver had been handcuffed and secured in separate police cruisers before Sergeant Miller performed the search. Second, Davis was arrested for 'an offense for which police could not expect to find evidence in the passenger compartment,' … because Miller had already verified Davis's identity when he arrested him for giving a false name." *Id.* Thus, neither of the justifications for the search incident to arrest exception applied.

The Eleventh Circuit's holding that the search was unconstitutional was not dicta, despite what the Eighth Circuit said below. *See* App. 12a. It is true that, in the end, the Eleventh Circuit applied the good-faith exception to the exclusionary rule and declined to suppress the evidence. *Davis*, 598 F.3d at 1267. But the Eleventh Circuit definitively concluded that there was a constitutional violation under *Gant*. The court wrote, "There can be no serious dispute that the search here violated Davis's Fourth Amendment rights." *Id.* at 1263; *see also United States v. Mitchell*, 374 F. App'x 859, 867 (11th Cir. 2010) ("[T]his court concluded that the search in *Davis* was unconstitutional."). Indeed, this Court understood the Eleventh Circuit to have held there was a constitutional violation: "The Eleventh Circuit, in the opinion below, applied *Gant*'s new rule and *held* that the vehicle search incident to Davis' arrest 'violated [his] Fourth Amendment rights.'" *Davis*, 564 U.S. at 236 (emphasis added). Moreover, there would have been no reason for the Eleventh Circuit to reach the good-faith exception if the search was constitutional in the first place. Thus, the law in the Eleventh Circuit is that an officer may not conduct a warrantless search of a car after arresting an occupant for providing false identification and ascertaining the person's identity.

b. The Colorado Supreme Court reached the same conclusion in *People v. Chamberlain*, 229 P.3d 1054 (Colo. 2010). In *Chamberlain*, an officer pulled over a driver for inadequately signaling before turning. The officer asked the driver for her license, and when prompted, the driver said she had been living at a different address than the one listed on her license. "After a check of her driver's license and subsequent call

to another officer revealed that she had been ticketed for another traffic offense less than two weeks earlier and that she had provided the ticketing officer from that offense with the old address on her driver's license, the defendant was arrested for false reporting, handcuffed, and placed in a patrol car." *Id.* at 1055. The officers then searched the car and found methamphetamine.

The Colorado Supreme Court ruled the search unconstitutional. The court highlighted that *Gant* had explained that some types of offenses would justify a search of a car incident to arrest (such as drug crimes) but others (such as traffic offenses) would not. *Id.* at 1056–57. *Chamberlain* reasoned, "The nature of the offense of arrest is clearly intended to have significance, and in some cases it may virtually preclude the existence of real or documentary evidence, but a broad rule automatically authorizing searches incident to arrest for all other offenses cannot be reconciled with the actual holding of *Gant*." *Id.* at 1057. The court pointed out that "[u]nlike simple traffic infractions like failing to signal, the driving-under-restraint type of offense for which Gant was arrested necessarily requires proof of awareness, or at least constructive notice, of the particular restraint being violated, making documentary evidence in the form of official notice a possible object of a search." *Id.* But *Gant* "had little difficulty in declaring the crime of arrest in *Gant* to be an offense for which the police could not expect to find evidence in the passenger compartment of his car." *Id.* Thus, to justify a search incident to arrest, there must be "[s]ome reasonable expectation beyond a mere possibility, whether arising solely from the nature of the

crime or from the particular circumstances surrounding the arrest," that the vehicle contains evidence of the crime of arrest. *Id.*

Turning to the case at hand, the Colorado Supreme Court held that searching the car after arresting the driver for "false reporting" was unconstitutional. *Id.* at 1057–58. "Although it may have been possible to find further evidence in the vehicle, without more it was no more reasonable to believe the defendant's vehicle might contain additional documentary evidence corroborating her admission than it was reasonable to believe Gant's vehicle might contain official notice of his suspension." *Id.* at 1058.

c. The Tenth and Sixth Circuit have reached the same conclusion when it comes to similar crimes of arrest.

In *United States v. McCane*, a driver was arrested for driving with a suspended license. 573 F.3d 1037, 1040 (10th Cir. 2009). After placing the driver in the police car, the officer searched the car and found a gun. There was no question that the search was unconstitutional under *Gant*. *Id.* Indeed, even the government conceded that point. *Id.* ("The parties agree that, in light of *Gant*, the district court erred in denying the motion to suppress the firearm on the grounds that the search was proper as incident to lawful arrest."). Though the Tenth Circuit, like the Eleventh Circuit in *Davis*, applied the good-faith exception to the exclusionary rule, the law in the Tenth Circuit is that such searches are unconstitutional. *See United States v. Madden*, 682 F.3d 920, 926 (10th Cir. 2012) ("Madden was seated in the back of Officer Balderrama's patrol car at the time of the search and it was not reasonable

to believe his vehicle contained evidence of the offense of arrest, i.e., evidence of two outstanding municipal misdemeanor traffic warrants.").

Similarly, in *United States v. Buford*, the court concluded the vehicle search "did not fall within the parameters elaborated in *Gant*." 632 F.3d 264, 267 (6th Cir. 2011) (noting the government conceded this point). There, the arrestee was handcuffed inside a patrol car and the crime of arrest was an outstanding warrant for a probation violation. *Id.*

The Tenth and Sixth Circuits thus agree with the rule of law that certain crimes, including providing false identification, do not give officers carte blanche to search a vehicle incident to arrest.[1]

2. The Eighth and Seventh Circuits, however, disagree. Below, the Eighth Circuit explicitly said, "Respectfully, we disagree with the Eleventh Circuit's analysis. Nothing in *Gant* prohibits the police from searching for additional evidence of an offense." App 12a. The court continued that "'it [was] reasonable to believe the vehicle contain[ed] evidence of the offense of arrest' because police could have found evidence in the car and in the backpack relevant to the occupants providing false identification information, even though the officer already knew their real names." App 12a–13a. That stands in direct contrast to the Eleventh Circuit's reasoning in *Davis* and the Colorado Supreme Court's reasoning in *Chamberlain*.

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[1] *See also State v. Oram*, 266 P.3d 1227, 1233 (Kan. Ct. App. 2011) (holding that officers who arrest a driver for giving a false name cannot search the car incident to the arrest); *United States v. Bronner*, No. 08-cr-395, 2009 WL 1748533, at *10 (D. Minn. June 19, 2009) (same).

The Seventh Circuit reached a similar conclusion in *Edwards*, 769 F.3d 509. There, the defendant was pulled over on suspicion of driving a stolen vehicle. *Id.* at 511. During questioning, the defendant admitted that the car belonged to someone else. The officers arrested him and then searched the car, finding a sawed-off shotgun. *Id.* at 512. The Seventh Circuit (without mentioning this Court's opinion in *Davis*) held that the search was constitutional even though it was clear to whom the car belonged "Under *Arizona v. Gant*, … a warrantless search of a vehicle incident to the arrest of one of its occupants requires reason to believe that the vehicle contains evidence of the offense of arrest. Here, Edwards was arrested for (among other possible offenses) driving a vehicle without the owner's consent; it was entirely reasonable to believe that evidence of the car's ownership—its registration or title, for example—would be found in the car." *Id.* at 511.

The defendant had argued that once officers learned who owned the car, there was no justification to search for further evidence in the car. The Seventh Circuit said that was "an incorrect premise. Evidence of a vehicle's ownership is *always* relevant to the crime of driving a vehicle without the owner's consent; registration and title documents are evidence of ownership and are often kept in a car. That's enough for a valid vehicle search incident to Edwards's arrest." *Id.* at 515. In other words, in direct contrast to this Court's opinion in *Davis*, as well as decisions from the Sixth, Tenth, and Eleventh Circuits and the Colorado Supreme Court, a search incident to arrest is always

justifiable if there is any possibility that something relevant to the crime might be found in the vehicle.[2]

* * *

The "Fourth Amendment's meaning" should not "'vary from place to place.'" *Virginia v. Moore*, 553 U.S. 164, 172 (2008). Yet, a driver in Iowa and a driver in Alabama face different rules of the road (constitutionally speaking). That is not just a problem for civilians, it is also a problem for police officers, who need to know whether they can constitutionally search a car based on the fact that they arrested the occupant for providing false information. *See Wyoming v. Houghton*, 526 U.S. 295, 304–05 (1999). This Court's intervention is thus necessary to return uniformity to this area of the law.

II. The question presented is exceptionally important

This case presents an exceptionally important issue.

Most fundamentally, this case involves the Fourth Amendment, which protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *Carpenter v. United States*, 138 S. Ct. 2206, 2213

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[2] *See also Deemer v. State*, 244 P.3d 69, 73 (Alaska Ct. App. 2010), (holding that officers who arrest a vehicle occupant for providing false identification can search the car incident to the arrest); *Commonwealth v. Baez*, 14 N.E.3d 968 (Mass. App. Ct. 2014) (same); *People v. Olivarez*, No. F059943, 2011 WL 655682, at *6 (Cal. Ct. App. Feb. 24, 2011) (same); *Armstead v. Commonwealth*, 695 S.E.2d 561, 578 (Va. Ct. App. 2010) (same when crime of arrest is failing to have a driver's license and registration card).

(2018). The purpose of that Amendment "is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." *Id.* And though individuals have a diminished right to privacy in vehicles, they do not surrender all right to privacy by getting behind the wheel. *See id.* at 2217. Indeed, this Court has cautioned against "undervalu[ing] the privacy interests at stake" when it comes to vehicle searches. *Gant*, 556 U.S. at 344–45.

On the other side of the ledger is the interest of law enforcement. They need not only the tools to investigate crimes, but also guidance from this Court to ensure their efforts are constitutional. *See Houghton*, 526 U.S. at 304–05. This case shows that both civilians and police are in need of guidance on when police can search a vehicle incident to arrest. And because the issue here is one of privacy, that guidance is urgently required.

In addition, nearly every American is involved in a traffic stop at some point in their life—whether as a driver or passenger. "[O]ne of the most common—and misconstrued—traffic-stop scenarios occurs when police officers either receive false identification from the driver or no identification at all. The question then becomes whether police officers may search the vehicle for evidence of identification and/or ownership." Paul Stern, *Revamping Search-and-Seizure Jurisprudence Along the Garden State Parkway*, 41 RUTGERS L.J. 657, 732 (2010). Indeed, in 2018, an estimated 18 million people had interactions with police during a traffic stop. Erika Harrell and Elizabeth Davis, *Contacts Between Police and the Public, 2018 – Statistical Tables* 4, U.S. Dep't of Just. Bureau Just. Stats. (2020),

https://tinyurl.com/zu84zbnw. Further, over 5.7 million people had contact with police as a passenger in a vehicle during a traffic stop. *Id.* Each interaction a person has with an officer while in a vehicle could lead to the warrantless search of a vehicle. Moreover, officers generally ask for identification of persons in the vehicle during a traffic stop, which may lead the passengers or drivers to give false identification.

Finally, given the number of traffic stops each year, it is unsurprising that this issue comes up repeatedly in the lower courts. But the courts (both state and federal) are at sea. *Compare Chamberlain*, 229 P.3d at 1057 (holding that officers who arrest a vehicle occupant for giving false information cannot search the car incident to the arrest); *Davis*, 598 F.3d at 1263 (same); *State v. Oram*, 266 P.3d 1227, 1233 (Kan. Ct. App. 2011) (same); *United States v. Bronner*, No. 08-cr-395, 2009 WL 1748533, at *10 (D. Minn. June 19, 2009) (same); *McCane*, 573 F.3d at 1040 (same when crime of arrest was driving with a suspended license); *Madden*, 682 F.3d at 926 (same when crime of arrest was outstanding traffic warrants); *Buford*, 632 F.3d at 267 (same when crime of arrest was probation violation); *with* App. 12a (holding that officers who arrest a vehicle occupant for providing false identification can search the car incident to the arrest); *Deemer v. State*, 244 P.3d 69, 73 (Alaska Ct. App. 2010); *Commonwealth v. Baez*, 14 N.E.3d 968 (Mass. App. Ct. 2014)(same); *People v. Olivarez*, No. F059943, 2011 WL 655682, at *6 (Cal. Ct. App. Feb. 24, 2011) (same); *Edwards*, 769 F.3d at 516 (same when crime of arrest is driving a vehicle without the owner's consent); *Armstead v. Commonwealth*, 695 S.E.2d 561, 578 (Va. Ct.

App. 2010) (same when crime of arrest is failing to have a driver's license and registration card).

This Court's answer to the question presented will have a profound impact on law enforcement practices throughout the country and on the individuals subjected to those practices. The question implicates both individuals' interest in remaining free from unreasonable searches and the government's interest in pursuing those who break the law and uncovering evidence of criminal activity. Given the frequency with which the question arises, this Court's guidance is urgently needed.

III. The decision below is wrong

The Eighth Circuit's decision is also wrong. "A person does not surrender all Fourth Amendment protection by venturing into the public sphere. To the contrary, 'what [one] seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.'" *Carpenter*, 138 S. Ct. at 2217. That remains true when it comes to automobiles. While motorists do have "a reduced expectation of privacy with regard to the property that they transport in cars," they nonetheless have a right to privacy. *Houghton*, 526 U.S. at 303; *Cardwell v. Lewis*, 417 U.S. 583, 590 (1974). That right should not be "undervalu[ed]." *Gant*, 556 U.S. at 344. Indeed, in this Court's very first Fourth Amendment opinion dealing with automobiles, the Court explained that it "would be intolerable and unreasonable if a prohibition agent were authorized to stop every automobile on the chance of finding liquor, and thus subject all persons lawfully using the highways to the inconvenience and indignity of such a

search." *Carroll v. United States*, 267 U.S. 132, 153–54 (1925).

A warrantless search of an automobile is thus presumptively unconstitutional, just as any warrantless search is. *See Katz*, 389 U.S. at 357. That presumption can be overcome in some instances, such as a search incident to arrest. But exceptions to the warrant requirement must be "jealously and carefully drawn." *Jones*, 357 U.S. at 499. A warrantless search must be "strictly circumscribed by the exigencies which justify its initiation." *Terry v. Ohio*, 392 U.S. 1, 25–26 (1968).

In *Chimel*, this Court held that there were two justifications for a warrantless search incident to arrest: officer safety and evidence preservation. *See* 395 U.S. at 763. Those justifications allow officers to search a vehicle in an exceedingly narrow set of cases: "*Chimel*['s] rationale authorizes police to search a vehicle incident to a recent occupant's arrest *only* when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search." *Gant*, 556 U.S. at 343 (emphasis added).

In *Gant*, this Court "also conclude[d] that circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is 'reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.'" *Id.* (quoting *Thornton*, 541 U.S. at 632 (Scalia, J., concurring in the judgment)). *Gant* was careful to explain, however, that "[i]n many cases, as when a recent occupant is arrested for a traffic violation, there will be no reasonable basis to believe the vehicle contains relevant evidence." *Id.* The offense in *Gant* was one such example. "Gant was ar-

rested for driving with a suspended license—an offense for which police could not expect to find evidence in the passenger compartment of Gant's car." *Id.* at 344. The Court also cited other exemplary situations such as being arrested for driving without a license, failing to provide proof of insurance, failing to wear a seatbelt, and speeding. *Id.* at 343–44 (citing *Atwater v. City of Lago Vista*, 532 U.S. 318, 324 (2001); *Knowles v. Iowa*, 525 U.S. 113, 118 (1998)). In those situations, there would be no reasonable basis to believe there is evidence of the crime in the car.

In other cases, however, "the offense of arrest will supply a basis for searching the passenger compartment of an arrestee's vehicle and any containers therein." *Id.* at 344. The Court cited only two cases as examples: *Belton* and *Thornton*. In both cases, the driver was arrested for drug possession. Searching a vehicle incident to an arrest for drug possession is justified because there is a reasonable probability there are more drugs in the car. Thus, "[t]he nature of the offense of arrest is clearly intended to have significance." *Chamberlain*, 229 P.3d at 1057.

If any further clarification of the point were necessary, this Court provided it in *Davis*, when it held that the search-incident-to-arrest exception did not apply to a vehicle search when the crime of arrest was providing false identification. 564 U.S. at 239 ("[This] search turned out to be unconstitutional under *Gant*.").

The Eighth Circuit's decision in this case was patently wrong. Both before and during the search, Petitioners were handcuffed and placed in a police car;

accordingly, neither officer safety nor evidence preservation justified the search. *See Gant*, 566 U.S. at 343. Thus, the only possible basis for searching the car incident to arrest was to uncover evidence of the crime of arrest. But Petitioners were not arrested for drug possession or some similar crime. They were arrested for providing false identification. There is no reasonable prospect that evidence of *that* crime would be in the vehicle. *Chamberlain*, 229 P.3d at 1058. Indeed, this Court already held so in *Davis*, 564 U.S. at 239.

The only evidence relevant to the crime of arrest here is the information that Petitioners supplied and their identities. And because the police had already verified both Petitioners' identities, there was no more evidence to be found. *See Bronner*, 2009 WL 1748533, at *10 ("Deputy Derringer had already obtained Schultz's driver's license and determined it had been revoked. There was nothing further to learn about this offense."). This situation is akin to the examples this Court cited in *Gant* where the search of a vehicle incident to arrest would not be constitutional. The crime of providing false information is like driving without a license or failing to provide proof of insurance. It is not like drug possession where there is a reasonable chance that more *contraband* will be found.

It is true that police might have found materials in the car that would have further proved the case against Petitioners. But the same is true of crimes like driving without a license or failing to provide proof of insurance. Police might find a license or expired insurance cards in the car. That, however, is not enough to justify turning the car inside out. *See Chamberlain*, 229 P.3d at 1058 ("Although it may have been possible to find further evidence in the vehicle, without more

it was no more reasonable to believe the defendant's vehicle might contain additional documentary evidence corroborating her admission than it was reasonable to believe Gant's vehicle might contain official notice of his suspension."). Additional evidence of a person's identity is simply cumulative. The same is not true of finding additional drugs or other contraband. Finding additional contraband can potentially support charges of additional crimes or increased penalties.

At bottom, if the Eighth Circuit's rule were correct, police could search a car any time they arrested an occupant. After all, no matter what the crime of arrest is, there is always a possibility that officers might find something in the car that is related to the crime. If police arrest a driver for failing to signal, the police might find that the turn signal does not work. Or if police arrest a driver for drunk driving, they might find a liquor bottle stashed under the driver's seat. The list goes on. But this Court has already expressly rejected such an unbounded rule. Before *Gant*, several lower courts had interpreted this Court's decision in *Belton* to authorize the warrantless search of a car any time an occupant was arrested. This Court eschewed that interpretation: "To read *Belton* as authorizing a vehicle search incident to every recent occupant's arrest would thus untether the rule from the justifications underlying the *Chimel* exception—a result clearly incompatible with our statement in *Belton* that it 'in no way alters the fundamental principles established in the *Chimel* case regarding the basic scope of searches incident to lawful custodial arrests.'" *Gant*, 556 U.S. at 343. The opinion below, however, once

again unmoors the search-incident-to-arrest exception from its justifications.

To be sure, the Eighth Circuit's rule would make policing more efficient. It will always be quicker to search a car upon the arrest of an occupant rather than having to trouble a magistrate for a warrant. That was clearly the case here. The officers suspected that something fishy was going on. When Officer Hotz first approached the car, she thought Ms. Campbell-Martin had been trying to hide her face. App. 26a. Ms. Campbell-Martin was "very nervous and fidgety," she was speaking quickly, and she "kept pulling her knees to her chest and breathing really heavy." App. 26a–27a. And when Ms. Campbell-Martin and Mr. Leiva said they could not remember their Social Security numbers, Officer Hotz said, "What's going on? Run me through. Something's going on right now." App. 3a. Sergeant Holland later said he also knew the occupants had been "up to no freaking good." D. Ct. Dkt. 55, at 31. These suspicions proved to be correct when the police found drugs in the car.

But "the mere fact that law enforcement may be made more efficient can never by itself justify disregard of the Fourth Amendment." *Mincey v. Arizona*, 437 U.S. 385, 393 (1978). "[T]he Fourth Amendment reflects the view of those who wrote the Bill of Rights that the privacy of a person's home and property may not be totally sacrificed in the name of maximum simplicity in enforcement of the criminal law." *Id.* The same is true when it comes to vehicles. Drivers' and passengers' privacy cannot be totally sacrificed in the name of law-enforcement efficiency. *Gant*, 556 U.S. at 343. Instead, warrantless searches of vehicles incident to arrest can be allowed only if the arrestee can

access the car at the time of the search or there is a reasonable prospect of finding evidence of the crime of arrest. Neither of those justifications was present here. The Eighth Circuit's opinion thus cannot stand.

IV. This case is an ideal vehicle

The question presented was properly preserved and is squarely posed. Petitioners both urged the Eighth Circuit to reverse the district court's conclusion that the search of the vehicle was constitutional. And they secured their right to appeal the district court's decision when conditionally pleading guilty. App. 4a–5a.

Moreover, although there are many encounters between police and civilians where this issue arises, *see supra* Part II, it is rare for a case to reach this Court with the question so cleanly presented. There are no extraneous facts for this Court to wade through and no alternative holdings below. The sole basis for the Eight Circuit's holding in this case was that the search was a valid search incident to arrest. Although the district court also held that the inventory-search exception applied, the Eighth Circuit did not. App. 11a ("Because we agree that the search was a valid search incident to arrest, we do not reach the question whether it was also a valid inventory search."). Even if that exception could justify the search here, that is an issue for remand at best.

Finally, no further percolation is necessary. The appellate courts (including this Court) have aired the issue. This case presents the Court with an optimal opportunity to answer the important question presented. And this Court should do so before any other

lower courts veer away from this Court's decision in *Davis*.

CONCLUSION

The Court should grant the petition for writ of certiorari.

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Respectfully submitted,

Anne Marie Lofaso
WEST VIRGINIA UNIVERSITY COLLEGE OF LAW
U.S. SUPREME COURT LITIGATION CLINIC
101 Law Center Drive
Morgantown, WV 26056

Lawrence D. Rosenberg
Counsel of Record
Andrew J. M. Bentz
JONES DAY
51 Louisiana Ave., NW
Washington, DC 20001
(202) 879-3939
ldrosenberg@jonesday.com

Counsel for Petitioners

Webb Wassmer
WASSMER LAW OFFICE, PLC
5320 Winslow Road
Marion, IA 52302

Counsel for Petitioner Campbell-Martin

Mark Meyer
425 2nd Street SE
Suite 1250
Cedar Rapids, IA 52401

Counsel for Petitioner Leiva