

**No. 25-1081**

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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MICHAEL MENDENHALL,

*Plaintiff-Appellant,*

v.

CITY AND COUNTY OF DENVER,

*Defendant-Appellee.*

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On Appeal from the United States District Court  
For the District of Colorado  
Civil Action No. 1:24-cv-00574  
The Honorable Philip A. Brimmer

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**MOTION OF KENNETH WALKER AND ANJANETTE YOUNG  
FOR LEAVE TO FILE *AMICI CURIAE* BRIEF  
IN SUPPORT OF APPELLANT**

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## **MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF**

Pursuant to Federal Rules of Appellate Procedure 27 and 29(a)(3), *amici curiae* Kenneth Walker and Anjanette Young hereby move for leave to file the attached *amici curiae* brief in support of Plaintiff-Appellant Michael Mendenhall.

### **MOVANTS' INTEREST**

Kenneth Walker and Anjanette Young are innocent victims of wrongful raids conducted under search warrants that issued without adequate judicial scrutiny. Their experiences illustrate the profound human cost of *Jones v. United States*, 362 U.S. 257 (1960). By permitting warrants to issue based solely on hearsay, *Jones* has incentivized officers to seek warrants, even when based on unsubstantiated or fabricated third-party hearsay, and has eroded the magistrate's constitutional role as a neutral and independent safeguard against unreasonable government intrusions into the home. Such were the searches experienced by Mr. Walker and Ms. Young.

Kenneth Walker was with his girlfriend, Breonna Taylor, when she was shot and killed by officers executing a nighttime, no-knock warrant on her home. The lead detective had sought that warrant based on nothing more than a gut feeling that Ms. Taylor was connected to her ex-

boyfriend's drug activity. Lacking actual probable cause, the detective instead fabricated a conversation with a postal inspector—falsely asserting that the inspector had confirmed suspicious packages were being delivered to Ms. Taylor's address. *Jones* made it not only possible, but easy, for that fabricated claim to serve as the foundation for the warrant—without verification, accountability, or judicial testing.

Anjanette Young is a licensed clinical social worker from Chicago who became a leading advocate for police reform after she was wrongfully subjected to a traumatic police raid on her home in 2019. The warrant authorizing the raid was based on unverified information from an informant who mistakenly identified her address as the location of a suspect. During the raid, twelve male officers stormed into Ms. Young's apartment while she was undressed, handcuffed her, and left her fully exposed—even after it became clear they had the wrong location. Had the police performed even minimal due diligence, Ms. Young would never have been forced to endure such humiliation and trauma. But they did no diligence, nor did the judge who issued the warrant require it.

## CONSENT OF THE PARTIES

*Amici* have obtained the affirmative consent of Plaintiff-Appellant to filing of the proposed *amici curiae* brief.

On May 23, 2025, *amici*, through counsel, sought consent from Defendant-Appellee for the filing of the proposed *amici* brief. Defendant-Appellee stated its position as “respectfully opposed to any amicus briefs in support of Appellants, based on our understanding of the alleged facts, claims, and law at-issue here.”

## REASONS FOR AND RELEVANCE OF *AMICI CURIAE*

Plaintiff-Appellant brought this case to overturn the Supreme Court’s decision in *Jones v. United States*, 362 U.S. 257 (1960). *Jones* has substantially undermined the protective role that the Fourth Amendment’s Oath or Affirmation Clause was intended to play, as a safeguard against unreasonable governmental intrusion into our lives. Conceding that this Court is bound by *Jones*, Plaintiff-Appellant has nevertheless appealed to this Court, both to preserve this issue for further review by the Supreme Court, and to hopefully persuade this Court to also call on the Supreme Court to reconsider *Jones*.

Plaintiff-Appellant’s brief explains why the decision in *Jones* is contrary to the original understanding of the Fourth Amendment, and on

that basis should be overruled. The proposed *amici* brief takes a different approach, offering *amici*'s experiential perspectives on the human cost of *Jones*, by describing the wrongful raids that they experienced, and explaining how the Supreme Court's decision in *Jones* allowed, if not incentivized, those raids to proceed.

*Amici* submit that their proposed brief will aid the Court in grasping the devastating impact that *Jones* has had on individual liberty, and the need for the Supreme Court to reconsider and overrule that decision, in order to restore the protection the Fourth Amendment's Oath or Affirmation Clause was intended to provide.

## CONCLUSION

For the foregoing reasons, *amici* respectfully request that the Court grant leave to file an *amici curiae* brief in support of Plaintiff-Appellant Michael Mendenhall.

Dated: June 5, 2025

Respectfully submitted,

*by /s/ Timothy S. Durst*

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## CERTIFICATE OF COMPLIANCE

In accordance with Federal Rule of Appellate Procedure 27(d), I certify that this motion:

(i) complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 716 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f); and

(ii) complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared using Microsoft Office Word 16.97.1, set in Century Schoolbook 14-point type.

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## CERTIFICATE OF SERVICE

I certify that on June 5, 2025, this motion was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

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**BRIEF OF KENNETH WALKER AND ANJANETTE YOUNG  
AS *AMICI CURIAE* IN SUPPORT OF APPELLANT**

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**INTEREST OF *AMICI CURIAE*<sup>1</sup>**

*Amici* Kenneth Walker and Anjanette Young are innocent victims of wrongful raids conducted under search warrants that issued without adequate judicial scrutiny. Their experiences illustrate the profound human cost of *Jones v. United States*, 362 U.S. 257 (1960). By permitting warrants to issue based solely on hearsay, *Jones* has incentivized officers to seek warrants, even when based on unsubstantiated or fabricated third-party hearsay, and has eroded the magistrate’s constitutional role as a neutral and independent safeguard against unreasonable government intrusions into the home. Such were the searches experienced by Mr. Walker and Ms. Young.

Kenneth Walker was with his girlfriend, Breonna Taylor, when she was shot and killed by officers executing a nighttime, no-knock warrant on her home. The lead detective had sought that warrant based on nothing more than a gut feeling that Ms. Taylor was connected to her ex-boyfriend’s drug activity. Lacking actual probable cause, the detective instead fabricated a conversation with a postal inspector—falsely

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<sup>1</sup> Pursuant to Fed. R. App. P. 29(a)(4)(E), counsel for *amici* state that no counsel for a party authored this brief in whole or in part, and no person, party, or party’s counsel, other than *amici* or their counsel, made a monetary contribution intended to fund the preparation or submission of this brief.



asserting that the inspector had confirmed suspicious packages were being delivered to Ms. Taylor's address. *Jones* made it not only possible, but easy, for that fabricated claim to serve as the foundation for the warrant—without verification, accountability, or judicial testing.

Anjanette Young is a licensed clinical social worker from Chicago who became a leading advocate for police reform after she was wrongfully subjected to a traumatic police raid on her home in 2019. The warrant authorizing the raid was based on unverified information from an informant who mistakenly identified her address as the location of a suspect. During the raid, twelve male officers stormed into Ms. Young's apartment while she was undressed, handcuffed her, and left her fully exposed—even after it became clear they had the wrong location. Had the police performed even minimal due diligence, Ms. Young would never have been forced to endure such humiliation and trauma. But they did no diligence, nor did the judge who issued the warrant require it.

*Amici* submit this brief to underscore the profound human costs that have resulted from the Supreme Court's decision in *Jones*, which chose to prioritize investigative convenience over constitutional guarantees.

## SUMMARY OF ARGUMENT

Sixty-five years ago, the Supreme Court in *Jones v. United States* chose to prioritize the investigative convenience of the police over the individual liberty of those they are tasked to protect. Despite long recognizing that the “drastic” nature of “proceeding by search warrant” demands that the Fourth Amendment “be liberally construed in favor of the individual,” *Sgro v. United States*, 287 U.S. 206, 210 (1932), by allowing hearsay to be used to establish probable cause for a warrant, the Supreme Court did the opposite in *Jones*. As illustrated by the experiences of Breonna Taylor, Kenneth Walker, and Anjanette Young, the consequences of that decision have been devastating.

Under *Jones*, police are now routinely permitted to intrude upon the home—long regarded as the most private of spaces and “entitled to special protection,” *Kentucky v. King*, 131 S. Ct. 1849, 1865 (2011)—merely on the basis of unverified and, in some instances, even fabricated claims. For Breonna Taylor and Kenneth Walker, for instance, the warrant that set in motion the violent, late-night raid in which Ms. Taylor was shot and killed by police was based on nothing more than fabricated hearsay and other lies made up by the investigating officer

who applied for the warrant.<sup>2</sup> With only a “gut feeling” that Ms. Taylor was involved in the criminal activities of an ex-boyfriend (she was not), *Jones* empowered the investigating officer to invade her home, despite his investigation failing to turn up any actual evidence of her involvement. Were it not for *Jones*, Ms. Taylor might still be alive today.

The invasive and degrading raid of Anjanette’s home—during which police burst into her home while she was undressed, handcuffed her, and left her exposed in a room full male officers—also likely could have been prevented, were *Jones* not the law. By allowing magistrates to approve warrants based on hearsay, *Jones* shifted the responsibility of assessing a declarant’s credibility from the neutral judge to the interested affiant officer. Now, instead of directly hearing from the source and probing the source’s reliability, the magistrate reviews only the officer’s filtered summary—both of the declarant’s statement, and of the reasons why it is credible. And, because the officer, seeking to obtain the warrant, may be incentivized to omit information casting doubt on the informant’s reliability, the magistrate is left with little meaningful

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<sup>2</sup> These lies was subsequently confirmed by the sworn statements of other officers, and adjudicated by the Louisville Metro Police Department Merit Board in affirming the officer’s firing. *See infra* note 46.

basis to deny the request. In this way, Jones has diminished judicial scrutiny, reducing the magistrate from constitutional gatekeeper to a role that is much more pro forma. In Ms. Young’s case, for instance, the judge approved the warrant, despite it being based solely on the unverified word of a confidential informant, incorrectly identifying Ms. Young’s apartment as the location of a police target—an error that basic investigative steps would likely have exposed. That no such verification was attempted—and that the magistrate apparently did not question the sufficiency of the evidence—reflects the systemic erosion of judicial oversight *Jones* helped entrench.

## ARGUMENT

The home is the most intimate space in a person’s life, defined not just by walls but by the authority to decide who may enter. It is where people are their most vulnerable, and where their expectations of privacy and security are the highest.<sup>3</sup> When the government violates those expectations, the resulting harm is especially grave—implicating not only physical safety, but also dignity, autonomy, and psychological well-

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<sup>3</sup> See, e.g., 3 Edward Coke, *INSTITUTES OF THE LAWS OF ENGLAND* 162 (1644) (“[A] man’s house is his castle, & domus sua cuique est tutissimum refugium [and each man’s home is his safest refuge]; for where shall a man be safe, if it be not in his house?”).

being. *See, e.g., Hudson v. Michigan*, 547 U.S. 586, 594 (2006) (“[E]lements of privacy and dignity [] can be destroyed” by government intrusion into the home, particularly when occupants are undressed or in bed); *Ker v. California*, 374 U.S. 23, 57 (1963) (Brennan, J., concurring in part and dissenting in part) (noting the “shock, fright or embarrassment attendant upon an unannounced police intrusion”).

The unique sanctity of the home has long been recognized as central to the Fourth Amendment’s design. *See, e.g., Kentucky v. King*, 131 S. Ct. 1849, 1865 (2011) (“In no quarter does the Fourth Amendment apply with greater force than in our homes.”); *United States v. United States Dist. Court*, 407 U.S. 297, 313 (1972) (physical entry of the home is the “chief evil” to be prevented by the Fourth Amendment). The Amendment’s Oath or Affirmation Clause, in particular, provides a critical safeguard against unwarranted governmental intrusions into the home—requiring that probable cause for a search warrant rest on sworn, accountable evidence that has been subjected to scrutiny by a neutral magistrate, rather than accepted on the word of law enforcement alone. Under *Jones v. United States*, however, that safeguard has been dangerously eroded. By permitting hearsay to establish probable cause

for a warrant, *Jones* shifted the responsibility for evaluating a declarant’s credibility from the neutral magistrate to the interested affiant. The magistrate is now left with only the officer’s filtered account—both of what the declarant said and why it should be believed—without the opportunity to question the declarant or to independently weigh the declarant’s credibility. In doing so, *Jones* stripped the warrant process of its constitutional rigor and undermined the magistrate’s essential role as a check against overreach and error.

As explained below, the experiences of Breonna Taylor, Kenneth Walker, and Anjanette Young—innocent victims of violent, wrongful home raids—underscore the profound human cost of *Jones*, which has enabled deadly, invasive searches to proceed on the basis of unverified or even fabricated claims.

## **I. BREONNA TAYLOR AND KENNETH WALKER**

### **A. The Fatal Raid on Breonna Taylor’s Home Was the Product of a Warrant Based on Fabricated Hearsay**

“I don’t know what’s happening—somebody kicked in the door and shot my girlfriend.”<sup>4</sup>

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<sup>4</sup> Radley Balko, *The no-knock warrant for Breonna Taylor was illegal*, THE WASHINGTON POST (June 3, 2020), <https://www.washingtonpost.com/opinions/2020/06/03/no-knock-warrant-breonna-taylor-was-illegal/>

– Kenneth Walker

In the early morning hours of March 13, 2020, more than a half-dozen plainclothes Louisville Metro Police Department officers descended on the apartment of 26-year-old emergency room technician, Breonna Taylor.<sup>5</sup> They were there to execute a search warrant—one of multiple warrants issued hours earlier, as part of a narcotics investigation targeting Ms. Taylor’s ex-boyfriend, Jamarcus Glover.<sup>6</sup> In addition to four homes linked directly to Mr. Glover’s alleged drug activity, officers sought to search Ms. Taylor’s home, based on claims that she had previously dated Mr. Glover and may have received packages on his behalf.<sup>7</sup>

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<sup>5</sup> Tessa Duvall, *FACT CHECK 2.0: Separating the truth from the lies in the Breonna Taylor police shooting*, LOUISVILLE COURIER JOURNAL (Mar. 11, 2022, 12:24 PM), <https://www.courier-journal.com/story/news/crime/2020/06/16/breonna-taylor-fact-check-7-rumors-wrong/5326938002/> [hereinafter *Duvall FACT CHECK*]

<sup>6</sup> *Id.*

<sup>7</sup> Jacob Sullum, *Was the Search Warrant for the Drug Raid That Killed Breonna Taylor Illegal?*, REASON (June 21, 2020, 6:00 PM), <https://reason.com/2020/06/21/was-the-search-warrant-for-the-drug-raid-that-killed-breonna-taylor-illegal/>

While officers were surrounding her apartment, inside, Ms. Taylor had just fallen asleep, having dozed off part-way through a movie.<sup>8</sup> Her boyfriend, Kenneth Walker, lay in bed beside her, continuing to watch the film.<sup>9</sup> It was Ms. Taylor's first night off following several consecutive 12-hour shifts in the emergency room.<sup>10</sup> The couple had gone out to dinner with friends earlier that evening, before retiring to Ms. Taylor's apartment to spend a quiet night at home.<sup>11</sup>

At approximately 12:40 a.m., the couple was jolted awake by a loud banging at the door.<sup>12</sup> Frightened, they called out repeatedly for whomever was at the door to identify themselves—they heard no answer.<sup>13</sup>

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<sup>8</sup> Tessa Duvall, *Breonna Taylor shooting: A minute-by-minute timeline of the events that led to her death*, LOUISVILLE COURIER JOURNAL (Sept. 25, 2020, 6:45 PM), <https://www.courier-journal.com/story/news/local/breonna-taylor/2020/09/23/minute-by-minute-timeline-breonna-taylor-shooting/3467112001/> [hereinafter *Duvall Minute-By-Minute*]

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Richard A. Oppel Jr., Derrick Bryson Taylor, and Nicholas Bogel-Burroughs, *What to Know About Breonna Taylor's Death*, NEW YORK TIMES (Aug. 23, 2024), <https://www.nytimes.com/article/breonna-taylor-police.html> ("A New York Times examination of video footage from the scene, witness accounts, statements by the police officers and forensic reports ... found that the only support for a grand jury's conclusion that the officers had announced



“It’s the middle of the night and somebody’s beating on the door at night, not saying who they are. Like, what are you gonna do if you’re at home with – with your family and somebody’s beating on your door and you don’t know who it is after you’ve asked who it is?

– Kenneth Walker

Fearing that it might be Ms. Taylor’s ex-boyfriend trying to force his way in,<sup>14</sup> Mr. Walker—a licensed gun owner—retrieved his firearm, before the couple began a cautious approach towards the door.<sup>15</sup>

“Protect Breonna, protect myself. That’s what was going through my head.”<sup>16</sup>

– Kenneth Walker

Moments later, officers broke down the front door with a battering ram.<sup>17</sup> Believing they were under attack, Mr. Walker fired a single warning shot toward the ground, hoping to scare off what he believed were intruders.<sup>18</sup>

“[T]he door comes off the hinges, it’s just – it’s happening fast, like, it was like an explosion. ...

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themselves before bursting into Ms. Taylor’s apartment—beyond the assertions of the officers themselves—was the account of a single witness who had given inconsistent statements.”).

<sup>14</sup> *Id.*

<sup>15</sup> *Duvall Minute-By-Minute*, *supra* note 8.

<sup>16</sup> Emily Shapiro, *‘Protect Breonna, protect myself’: Breonna Taylor’s boyfriend recounts night she was killed*, ABC NEWS (Oct. 21, 2020, 2:54 PM), <https://abcnews.go.com/US/protect-breonna-protect-breonna-taylors-boyfriend-recounts-night/story?id=73716400>

<sup>17</sup> *Duvall Minute-By-Minute*, *supra* note 8.

<sup>18</sup> Shapiro *supra* note 16.

[S]o boom, one shot. Then all of a sudden there was a whole lot of shots.”<sup>19</sup>

– Kenneth Walker

In response, three officers unleashed a barrage of gunfire—discharging a total of 32 rounds into the dark apartment. Bullets pierced walls, shattered windows, and even entered neighboring apartments.<sup>20</sup>

“I don’t think I ever heard so many gunshots all at the same time. I’ve never been to war but I assume that’s what war probably sounds like.”<sup>21</sup>

– Kenneth Walker

Amid the chaos, Mr. Walker tried to pull Taylor toward the ground for safety, but she froze.<sup>22</sup>

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<sup>19</sup> Breonna Taylor Investigation, PIU 20-019 Interview Transcripts, *Interview with Kenneth Walker*, Louisville Metro Police Department (Mar. 13, 2020), <https://louisville-police.org/DocumentCenter/View/1808/PIU-20-019-Transcripts> [hereinafter *Walker Interview*]

<sup>20</sup> Bill Hutchinson, Stephanie Wash, and Sabina Ghebremedhin, *Breonna Taylor shooting case: Hankison indicted on wanton endangerment of neighbors*, ABC NEWS (Sept. 23, 2020, 5:55 PM), <https://abcnews.go.com/US/grand-jury-set-announce-decision-breonna-taylor-police/story?id=73165512>

<sup>21</sup> *Breonna Taylor’s boyfriend Kenneth Walker details the night of her death in an exclusive interview*, CBS THIS MORNING (Oct. 14, 2020), [https://www.youtube.com/watch?v=TOEOKc\\_q4e8](https://www.youtube.com/watch?v=TOEOKc_q4e8)

<sup>22</sup> Marisa Iati, *Officers who killed Breonna Taylor should not have fired their weapons, internal investigator finds*, WASHINGTON POST (May 10, 2021), <https://www.washingtonpost.com/nation/2021/05/10/breonna-taylor-internal-investigation/>

“[S]he was just scared, she didn’t get down.”<sup>23</sup>

– Kenneth Walker

Ms. Taylor was struck six times.<sup>24</sup> She collapsed in the hallway. According to Mr. Walker, she lay there “cough[ing] and struggl[ing] to breathe for at least five minutes after she was shot.”<sup>25</sup>

“The next thing I know she’s on the ground and the door’s busted open and I hear a bunch of yelling and just—and I’m just panicking and I’m telling somebody—I’m yelling, ‘Help.’ Cause she’s right here bleeding and nobody’s coming and I’m just confused and scared.”<sup>26</sup>

– Kenneth Walker

Still unaware that the intruders were police, Mr. Walker placed a frantic call to 911, desperately seeking help.<sup>27</sup> Then, he called Breonna’s mother, Tamika Palmer.<sup>28</sup> He was still on the phone with Ms. Palmer when officers forced him out of the apartment at gunpoint and placed him

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<sup>23</sup> *Breonna Taylor’s boyfriend recounts how police shot her*, PBS NEWS (Oct. 14, 2020, 12:35 PM), <https://www.pbs.org/newshour/nation/breonna-taylors-boyfriend-recounts-how-police-shot-her>

<sup>24</sup> *Breonna Taylor: What happened on the night of her death?*, BBC (Oct. 8, 2020), <https://www.bbc.com/news/world-us-canada-54210448>

<sup>25</sup> Oppel, *supra* note 13.

<sup>26</sup> *Walker Interview*, *supra* note 19.

<sup>27</sup> Robert Roldan, *Breonna Taylor’s boyfriend says he thinks officers wanted him death*, LOUISVILLE PUBLIC MEDIA (Nov. 6, 2023, 4:25 PM), <https://www.lpm.org/news/2023-11-06/breonna-taylors-boyfriend-says-he-thinks-officers-wanted-him-dead>

<sup>28</sup> *Id.*

in handcuffs.<sup>29</sup> Inside, Breonna Taylor lay alone in the hallway. None of the officers rendered medical aid. More than 20 minutes passed before any emergency responder arrived to assess her condition.<sup>30</sup> By then, it was too late. The coroner placed her time of death at 12:48 a.m.<sup>31</sup>

“I don’t have a clue why they were at the door....  
She’s never been in any type of trouble.”<sup>32</sup>

– Kenneth Walker

No drugs, money, or contraband were found in Ms. Taylor’s apartment during or after the raid.<sup>33</sup> Mr. Glover himself later confirmed that Ms. Taylor had no involvement in his drug trade, explaining that the only packages he ever had sent to her address contained clothes and shoes that we was afraid would be stolen if sent to the house where he stayed.<sup>34</sup> Moreover, Ms. Taylor had severed ties with Mr. Glover a month before the raid.<sup>35</sup>

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<sup>29</sup> *Id.*

<sup>30</sup> *The Breonna Taylor Case and Questions About Qualified Immunity*, EQUAL JUSTICE INITIATIVE (Aug. 17, 2020), <https://ej.org/news/the-breonna-taylor-case-and-questions-about-qualified-immunity/> [hereinafter *Equal Justice*]

<sup>31</sup> *Duvall FACT CHECK*, *supra* note 5.

<sup>32</sup> *Walker Interview*, *supra* note 19, at 41.

<sup>33</sup> *Equal Justice*, *supra* note 30.

<sup>34</sup> *Oppel*, *supra* note 13.

<sup>35</sup> Rukmini Callimachi, *Breonna Taylor’s Life Was Changing. Then the Police Came to Her Door.*, NEW YORK TIMES, <https://www.nytimes.com/2020/08/30/us/breonna-taylor-police-killing.html>

“I don’t understand at all why they would be knocking on her door unless it was a mistake. Like at all. And I asked that out there a million times like, ‘Why were you out here even at the door?’ Nobody had an answer.”<sup>36</sup>

– Kenneth Walker

Instead of evidence, the affidavit used to secure the search warrant was premised on lies. Its primary drafter, Detective Joshua Jaynes, had a “gut feeling” that Ms. Taylor was involved in Mr. Glover’s illegal drug trade, after observing Mr. Glover pick up a package from her home.<sup>37</sup> Detective Jaynes had no idea what the package actually contained, but suspected it was drug-related, based on what he knew about Mr. Glover.<sup>38</sup> Seeking to confirm his suspicions, Detective Jaynes asked a colleague to reach out to a U.S. Postal Inspector to determine whether Mr. Glover had been receiving packages at Ms. Taylor’s address. The response back was unequivocal—there was “nothing there.”<sup>39</sup> The U.S. Postal Inspection Service had no evidence of Mr. Glover receiving mail at

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<sup>36</sup> *Walker Interview*, *supra* note 19.

<sup>37</sup> Plea Agreement Addendum – Kelly Goodlett Factual Basis, No. 3:22-cv-00086-RGJ, Dkt. 15-1 (W.D. Ky. Aug. 23, 2022), available at <https://htv-prod-media.s3.amazonaws.com/files/goodlett-plea-addendum-1662558408.pdf> [hereinafter *Goodlett Plea*].

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

Ms. Taylor’s address, and the address had not been flagged as having received any suspicious packages.<sup>40</sup>

The affidavit Detective Jaynes used to secure the warrant for Ms. Taylor’s home did not reflect this reality. To the contrary, Detective Jaynes knowing lied by stating that he had “verified through a U.S. postal inspector that Jamarcus Glover has been receiving packages” at Ms. Taylor’s apartment.<sup>41</sup> Based on that fabricated conversation, Jefferson County Circuit Judge Mary Shaw approved the search warrant for Ms. Taylor’s apartment, setting in motion events that led to the tragic loss of Ms. Taylor’s life.<sup>42</sup>

**B. *Jones* Endangers the Innocent by Stripping Away Fourth Amendment Safeguards**

Breonna Taylor and Kenneth Walker were both innocent. They had no reason to expect that police officers would storm into Ms. Taylor’s apartment in the middle of the night. The tragedy that unfolded during

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<sup>40</sup> *Id.*

<sup>41</sup> Affidavit for Search Warrant para. 9 (Mar. 12, 2020) (No. 20-1371), available at <https://reason.com/wp-content/uploads/2020/06/Breonna-Taylor-search-warrants.pdf> [hereinafter *Taylor Search Affidavit*].

<sup>42</sup> Jacob Sullum, *Judicial rubber-stamping of warrants can be deadly*, ROSWELL DAILY RECORD (Aug. 10, 2022), [https://www.rdrnews.com/judicial-rubber-stamping-of-warrants-can-be-deadly/article\\_0e5d9962-18c8-11ed-9270-f363bc9953ff.html](https://www.rdrnews.com/judicial-rubber-stamping-of-warrants-can-be-deadly/article_0e5d9962-18c8-11ed-9270-f363bc9953ff.html)

the raid on her home reflects not only a catastrophic failure of the warrant process, but also a foreseeable consequence of *Jones*.

By allowing magistrates to issue warrants based on hearsay, *Jones* removed the requirement that a declarant appear in court, swear to the truth of their statement, and be subjected to questioning, and replaced it with a framework that lends itself to fabrication. Officers seeking a warrant but lacking probable cause—like Detective Jaynes—may now be motivated to enhance their own affidavits by inventing conversations with third-party declarants. And, because *Jones* requires no oath or appearance from those declarants, the reviewing judge must rely entirely on the affiant's secondhand account of what a declarant allegedly said and why he/she should be believed. Not only does the magistrate have no opportunity to evaluate the declarant's demeanor, consistency, or basis of knowledge, but also, more fundamentally, the magistrate effectively has no way to verify whether the declarant even exists or ever even made the statements attributed to him/her. The result is a system in which wholly fabricated claims can serve as the basis for intrusions into our most private spaces.

This is precisely what occurred in Breonna Taylor’s case. Detective Jaynes wanted to obtain a warrant to search Ms. Taylor’s home based only on a gut feeling that she was involved in her ex-boyfriend’s alleged criminal activity.<sup>43,44</sup> When he was unable to find any evidentiary support, he invented it—falsely claiming that a postal inspector had confirmed suspicious packages were being delivered to her address.<sup>45</sup> As confirmed by the sworn statements of other officers, and adjudicated by the Louisville Metro Police Department Merit Board, no such confirmation was ever given.<sup>46</sup> Indeed, the postal inspector later came

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<sup>43</sup> *Goodlett Plea*, *supra* note 37.

<sup>44</sup> As Detective Jaynes testified after the shooting: “Through my investigation experience...is that they get other people involved and it’s usually females....It’s usually baby mamas or ... it’s girlfriends that they can trust. They can trust them with their money and their stuff. And that’s where I believed [Breonna Taylor’s home] to be.” Tyler Emery, *Investigators say affidavit for warrant to search Breonna Taylor’s home ‘should be reviewed for criminal actions,’ ABC WHAS 11* (last updated Oct. 7, 2020, 11:46 PM), <https://www.whas11.com/article/news/investigations/breonna-taylor-case/breonna-taylor-joshua-jaynes-lmpd-investigation-files/417-a3d39c7a-d76e-431a-be49-f7ca088e5128>

<sup>45</sup> *Taylor Search Affidavit*, *supra* note 41.

<sup>46</sup> *Goodlett Plea*, *supra* note 37; Ward Jolles and Derek Brightwell, *KY appeals court upholds firing of former LMPD detective Joshua Jaynes*, WAVE (Nov. 22, 2023, 8:17 PM), <https://www.wave3.com/2023/11/23/ky-appeals-court-upholds-firing-former-lmpd-detective-joshua-jaynes/>



forward and expressly denied he had ever made such a statement.<sup>47</sup> Under a proper application of the Fourth Amendment's oath or affirmation requirement, Detective Jaynes's lie would never have survived; the warrant could only have issued with the inspector's sworn testimony, and the inspector had no reason to lie under oath for Detective Jaynes's benefit.

By incentivizing affiants to fabricate conversations in order to obtain the warrants they seek, *Jones* has undoubtedly given rise to an increase in wrongful raids on the homes of the innocent. Unlike legitimate raids targeting known or suspected criminals—where targets may anticipate police presence and officers can plan for expected behaviors—raids on innocent individuals are marked by unpredictability and confusion, increasing the risk of unnecessary violence.

Such was the case with Ms. Taylor and Mr. Walker, who had no reason to expect that police officers would storm into Ms. Taylor's apartment in the middle of the night.

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<sup>47</sup> Balko, *supra* note 3; *see also* Breonna Taylor Investigation, Louisville Metro Police Department, PIU 20-019 Investigative Report at p. 154-55 (Mar. 18, 2020), <https://louisville-police.org/DocumentCenter/View/1818/PIU-20-019-Investigative-Reports>

“I was raised by a good family. I am a legal gun owner, and I would never knowingly shoot a police officer.”<sup>48</sup>

– Kenneth Walker

When officers began to force their way inside, it was only natural for Mr. Walker to believe they were intruders, and to fire a warning shot in self-defense. As Justice Robert Jackson explained in his concurrence in *McDonald v. United States*, this result was entirely foreseeable: When a person “sees a strange man, in plain clothes,” attempting to gain entry into their home, “the natural impulse would be to shoot.” 335 U.S. 451, 460-61 (1948) (Justice Jackson explaining that, while “an officer seeing a gun being drawn on him [in such situation] might shoot first,” for his part, the Justice himself “should not want the task of convincing a jury that it was not murder”).

Unfortunately, what happened to Ms. Taylor and Mr. Walker is not an isolated incident. Across the country, numerous innocent individuals and families have suffered the trauma of wrongful raids premised on

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<sup>48</sup> *Who is Kenneth Walker?*, WHAS 11 ABC (Sept. 24, 2020, 5:29 PM), <https://www.whas11.com/article/news/investigations/breonna-taylor-case/who-is-kenneth-walker-breonna-taylor-boyfriend-grand-jury-decision/417-f20e20aa-e97e-4843-95f4-be5aba95201e>

hearsay, misstatements, and even outright falsehoods.<sup>49</sup> To restore the Fourth Amendment’s protection for the home—and to help ensure that innocent people are not subjected to the terror and violence of government intrusion based on lies—the oath or affirmation requirement must be enforced as a real safeguard, and not the discarded formality it has become under *Jones*.

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<sup>49</sup> See, e.g., Juan A. Lozano, *Former Houston officer convicted of murder in deaths of couple during drug raid*, THE ASSOCIATED PRESS (Sept. 25, 2024, 6:41 PM) <https://apnews.com/article/houston-fatal-drug-raid-officer-murder-trial-44615a811db21398a9820ffc8cbc979e> (describing the case a former Houston police officer, Gerald Goines, who was found guilty of two counts of murder in the deaths of Dennis Tuttle, and his wife Rhogena Nicholas, who were fatally shot during the execution of a no-knock warrant that Goines had obtained by falsely claiming that an informant purchased heroin at the couple’s home); *Atlanta sued in police killing of a 92-year-old*, NBC NEWS (Nov. 21, 2007, 12:46 PM), <https://www.nbcnews.com/id/wbna21917124> (describing the civil suit brought by the family of 92-year-old Kathryn Johnston against multiple Atlanta police officers, after Ms. Johnston was killed during a no-knock raid on her home that was undertaken pursuant to a warrant that prosecutors alleged the officers obtained “by falsely telling a judge that an informant confirmed drug dealing at the home,” where “[t]he informant later told federal investigators he was told by police to concoct the tale”); Justin Garcia, *Deadly Tampa police raid results in settlement, SWAT policy changes*, TAMPA BAY TIMES (July 27, 2023), <https://www.tampabay.com/news/tampa/2023/07/26/flawed-tampa-police-raid-brings-settlement-swat-policy-changes/> (describing the wrongful death of Jason Westcott, who was shot and killed during the execution of a warrant that police obtained, on the basis of “false information from an unreliable informant”).

## II. ANJANETTE YOUNG

### A. The Raid On Anjanette Young's Home Was Undertaken Based Only on the Unverified Word of an Informant

"I did not lose my physical life that night, but I lost a lot of my life that night. My life will never be the same."<sup>50</sup>

– Anjanette Young

On the evening of February 21, 2019, twelve Chicago police officers were preparing to execute a search warrant at Anjanette Young's apartment.<sup>51</sup> Acting on a tip from a confidential informant, they believed the target of an ongoing criminal investigation was located inside.<sup>52</sup> The apartment's only occupant, however, was Ms. Young.

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<sup>50</sup> Fran Spielman, *City Council panel rejects sweeping search warrant reforms despite plea from Anjanette Young*, CHICAGO SUN TIMES (Nov. 10, 2022, 1:39 PM), <https://chicago.suntimes.com/city-hall/2022/11/10/23451675/anjanette-young-raid-wrong-address-search-warrant-chicago-city-council-committee-ordinance-vote>

<sup>51</sup> Justin Laurence, *Anjanette Young Calls On Aldermen To Support Search Warrant Changes In Her Name: 'Do The Right Thing'*, BLOCK CLUB CHICAGO (May 5, 2021), <https://blockclubchicago.org/2021/05/05/anjanette-young-calls-on-aldermen-to-support-search-warrant-changes-in-her-name-do-the-right-thing/>

<sup>52</sup> David Savini, Samah Assad, and Michele Youngerman, *'You Have the Wrong Place:' Body Camera Video Shows Moments Police Handcuff Innocent, Naked Woman During Wrong Raid*, CBS CHICAGO (Dec. 17, 2020, 12:45 PM), <https://www.cbsnews.com/chicago/news/you-have-the-wrong-place-body-camera-video-shows-moments-police-handcuff-innocent-naked-woman-during-wrong-raid/>

After arriving home from work earlier that evening, Ms. Young, a licensed clinical social worker, was preparing for a quiet night at home. It was 7:00 p.m., and *Grey's Anatomy* had just begun.<sup>53</sup> Ms. Young turned on the television, poured herself a glass of wine, and took off her work clothes to change into something more comfortable, when the police battering ram broke open her front door.<sup>54</sup>

Suddenly, Ms. Young—completely naked and exposed—found herself surrounded by twelve armed men, their rifles drawn, flashlights and scopes trained directly on her.<sup>55</sup>

“I’m just standing there, I mean, terrified, humiliated, not even understanding why, in the moment, it was happening.”<sup>56</sup>

— Anjanette Young

Almost immediately, she was placed in handcuffs.<sup>57</sup> cursory attempts were made to cover her exposed body, but none was sufficient. While one officer draped a short coat over her shoulders, it left the front of her body

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<sup>53</sup> Maria Cramer, *Chicago Woman Who Was Handcuffed Naked Receives \$2.9 Million Settlement*, NEW YORK TIMES (Dec. 15, 2021), <https://www.nytimes.com/2021/12/15/us/anjanette-young-chicago-police-settlement.html>

<sup>54</sup> *Id.*

<sup>55</sup> Savini, *supra* note 52.

<sup>56</sup> *CBS 2 Investigation: My Name Is Anjanette Young*, CBS Chicago (Dec. 17, 2020), <https://www.youtube.com/watch?v=-KGZjuPx4Pc>

<sup>57</sup> Savini, *supra* note 52.

entirely exposed.<sup>58</sup> Subsequently, another officer attempted to wrap her in a blanket, but with her hands restrained behind her back, she was unable to hold it in place; her body was exposed over and over again, each time the blanket slipped.<sup>59</sup>

“When they entered my home, I did not have any clothes on. And they were more focused on finding handguns and ammunition and drugs than securing the dignity of a female citizen. It was clear that my safety and dignity was not top of mind. Where was the serve and protect for me?”<sup>60</sup>

— Anjanette Young

The experience was so invasive and traumatic—standing naked in a room full of men who were recording her with their body-cams—was so profound that Ms. Young later likened it to a sexual assault.<sup>61</sup>

With Ms. Young handcuffed in the living room, officers swept through her apartment with rifles drawn, “expecting to find a felon with a gun.”<sup>62</sup> However, it quickly became apparent that the information they

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*; Cramer, *supra* note 53.

<sup>60</sup> Spielman, *supra* note 50.

<sup>61</sup> *Behind the Mistaken Raid By Chicago Police On An Innocent Social Worker's Home*, WTTW NEWS (Dec. 19, 2020, 9:43 AM), <https://news.wttw.com/2020/12/19/behind-mistaken-raid-chicago-police-anjanette-young>

<sup>62</sup> *Id.*

had received from the informant was bad, and that they were at the wrong apartment.<sup>63</sup> Nonetheless, it took over 10 minutes before the officers allowed Ms. Young to get dressed, and even longer before they removed her handcuffs.<sup>64</sup>

“You’ve got the wrong house. I live alone. . . .  
Who are you looking for? ... I’ve been living here  
for four years and nobody lives here but me. ...  
I’m telling you this is wrong.... I have nothing to  
do with whoever this person is you are looking  
for.”<sup>65</sup>

– Anjanette Young

During this time, the officers largely ignored Ms. Young, who was left sobbing, begging for answers and pleading for the officers to leave.<sup>66</sup> Before they finally left, Ms. Young had told the officers, no less than 43 times, that they were at the wrong house—a fact the officers could have

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<sup>63</sup> Emmanuel Camarillo, *In botched Anjanette Young raid, Chicago Police Board votes to fire sergeant in charge*, CHICAGO SUN TIMES (Jun. 15, 2023, 9:39 PM), <https://chicago.suntimes.com/crime/2023/6/15/23763033/anjanette-young-chicago-police-board-alex-wolinski-botched-raid> (describing documents filed by former Chicago Police Supt. David Brown, recommending the firing of Alex Wolinski, the sergeant who oversaw the raid on Ms. Young’s home, criticizing Wolinski of allowing Young “to remain in handcuffs and naked in a room full of male police officers—even after cops realized that they had entered the wrong address”).

<sup>64</sup> Savini, *supra* note 52.

<sup>65</sup> *Id.*

<sup>66</sup> Peter Nickeas, *Behind the mistaken raid by Chicago Police on an innocent social worker’s home*, CNN (Dec. 20, 2020, 11:07 AM), <https://www.cnn.com/2020/12/19/us/chicago-police-mistaken-raid>

easily discovered for themselves, without ever traumatizing Ms. Young, had they only performed even a minimal amount of due diligence before seeking the warrant.<sup>67</sup>

The warrant to search Ms. Young's apartment was issued based solely on the word of a confidential informant.<sup>68</sup> After the informant claimed to have recently seen the suspect, the lead officer on the raid allegedly had him identify a photo of the suspect from a police database, and then drove him to where he claimed the suspect was located—Ms. Young's apartment.<sup>69</sup> Apparently, that amounted to the entirety of the officer's investigation; there is no evidence that any attempt was made to verify the informant's information.<sup>70</sup>

“It was so hurtful to know that so little  
information was used to completely destroy my  
life.”<sup>71</sup>

— Anjanette Young

In particular, there is no evidence that the lead officer conducted any surveillance, questioned any neighbors, or made any effort to confirm

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<sup>67</sup> Savini, *supra* note 52.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> May 27, 2025, communication with Ms. Young.



who actually lived in the apartment that the informant had identified.<sup>72</sup> Instead, based solely on the informant's uncorroborated word, it appears that the officer requested a warrant for Ms. Young's home, an assistant state's attorney approved the request, and then a judge issued the warrant on Ms. Young's home, based on the request.<sup>73</sup>

The suspect, it turned out, lived in a neighboring unit—and was on electronic monitoring at the time.<sup>74</sup> Had anyone bothered to check the police department's tracking database, they would have easily obtained his actual location and confirmed he was not in Ms. Young's apartment. Instead, it appears that the officers relied entirely on the unverified word of the informant, and stormed the wrong home.

“What I endured was not just a momentary violation .... I [now] live with symptoms of PTSD including anxiety, nightmares, and a deep sense of vulnerability in my home—the place that I should feel the safest.”<sup>75</sup>

– Anjanette Young

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<sup>72</sup> Savini, *supra* note 52.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> May 27, 2025, communication with Ms. Young.

In total, the raid on Ms. Young’s home lasted forty-minutes.<sup>76</sup> The emotional trauma she has been left with is enduring.

**B. *Jones* Has Reduced The Role Of Judicial Oversight To Little More Than A Rubber Stamp**

Ms. Young should never have had to endure the invasive and degrading raid that was conducted on her home. When presented with a warrant application that relied entirely on an unverified tip from an informant, the magistrate judge who issued the warrant had a constitutional obligation to probe the basis for the officer affiant’s assertions—e.g., by asking whether the informant’s claims were corroborated and what, if anything, law enforcement had done to verify them. While it is unclear whether the magistrate ever spoke with the informant,<sup>77</sup> the fact that he issued the warrant at all—given the

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<sup>76</sup> *Victim of botched Chicago police raid says settlement money doesn’t bring her peace: ‘I lost a lot of my life that night’*, CBS NEWS (Jan. 21, 2022, 12:04 PM), <https://www.cbsnews.com/news/anjanette-young-chicago-police-department-raid/>

<sup>77</sup> The record does not make clear whether the magistrate ever personally spoke with the informant before issuing the warrant. The Complaint for Search Warrant, which was prepared by Officer Alain Aporongao, asserts that the informant—identified only as “J. Doe”—“swore to the contents of this complaint, and was made available to the undersigned Judge for questioning.” File No. Cl-19-500065-01, Complaint for Search Warrant at 24-26, available at <https://www.chicago.gov/content/dam/city/depts/mayor/statementsanddocume>

apparent lack of *any* attempt by officers to verify the informant’s tip—is highly suggestive of a lack of any meaningful consideration.

“His signature on a piece of paper changed my life. He didn’t know my name, he never saw my face, but with a stroke of a pen, he gave permission to overzealous officers to storm into my home. To traumatize me because they did not do their basic due diligence. To ignore my naked body, handcuff me, and make me beg for dignity. I was not a suspect. I was not a criminal.”<sup>78</sup>

– Anjanette Young

Ms. Young’s experience reflects the weakening of the magistrate’s role that has taken root under *Jones*. This is no small matter. As the

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nts/FOIA-Claims-File%20.pdf. Yet, in the aftermath of the wrongful raid, an investigation into the officers’ actions revealed stark inconsistencies between the accounts of the officers and the informant—who had by then been identified. Indeed, the Civilian Office of Police Accountability found that “[s]o different was Doe’s account that it cast doubt upon the Warrant’s legitimacy.” LOG #2019-0004600, Summary Report of Investigation, Civilian Office of Police Accountability, at p. 16-17, available at <https://www.chicagocopa.org/wp-content/uploads/2021/11/2019-4600-redacted.pdf>. For instance, the informant stated “that he met with the judge outside of a convenience store, not at a courthouse, and that the meeting occurred *before* officers drove him to the area of the Target’s supposed address and asked him to point out the Target’s residence.” *Id.* at 19, n. 25. If the informant’s version is accurate, then the magistrate failed to conduct any meaningful review of his claims. If it is not, then the informant was plainly unreliable—something the magistrate should have discerned. Either way, the safeguards required by the Fourth Amendment were not honored.

<sup>78</sup> May 27, 2025, communication with Ms. Young, discussing what Ms. Young would say to the judge who issued her warrant, if she had the chance.

Supreme Court emphasized in *Johnson v. United States*, 333 U.S. 10 (1948), a cornerstone of the Fourth Amendment’s protections is its requirement “that [any] inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.” *Id.* at 14; *see also Terry v. Ohio*, 392 U.S. 1 (1968) (“The scheme of the Fourth Amendment becomes meaningful only when it is assured that at some point the conduct of those charged with enforcing the laws can be subjected to the more detached neutral scrutiny of a judge.”).

Yet under *Jones*, the magistrate judge is no longer able to meaningfully perform that constitutional role. Denied access to the declarant, the judge cannot assess his/her credibility firsthand.<sup>79</sup> Instead, the affiant alone decides which facts to include and which to withhold, effectively filtering the evidence and shielding the judge from any information that might undermine the affiant’s narrative. As the First Circuit warned in *Giles v. United States*, under such a system of

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<sup>79</sup> *See, e.g.,* Myron W. Orfield, Jr., *Deterrence, Perjury, and the Heater Factor: An Exclusionary Rule in the Chicago Criminal Courts*, 63 U. COLO. L. REV. 75, 106 (1992) (quoting anonymous judge: “In narcotics, the police can create everything out of whole cloth. All of the info comes out of their heads. There is nobody to come in and say that didn’t happen, to refute it.”).

judicial review—where access to the full set of facts has been withheld—the neutral reviewer has thereby been “ousted from his judicial function, and remitted to a performance purely perfunctory.” 284 F. 208, 214 (1st Cir. 1922). The Fourth Amendment demands more than this system of magisterial rubber-stamping that *Jones* has engendered.<sup>80</sup>

## CONCLUSION

As the experiences of Breonna Taylor, Kenneth Walker, and Anjanette Young demonstrate, the human cost of *Jones* has been immense. By enabling officers to seek warrants based on fabricated third-party hearsay, and by eroding the magistrate’s constitutional role as a neutral and independent safeguard against unreasonable government intrusions into the home, *Jones* has turned the warrant process into a mere formality—one that too often rubber-stamps invasions of our most sacred private spaces based on unverified, and

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<sup>80</sup> See, e.g., Ricardo J. Bascuas, *Property and Probable Cause: The Fourth Amendment's Principled Protection of Privacy*, 60 RUTGERS L. REV. 575, 591 (2008) (“It has long been common knowledge among practitioners and scholars that judges ‘rubber stamp’ warrant applications and barely supervise the process.”); Silas J. Wasserstrom, *The Fourth Amendment As Constitutional Theory*, 77 GEO. L.J. 19, 34 (1988) (“[T]he ‘rubber stamp’ quality of magistrate review of warrant applications is an open scandal.”).

sometimes patently false, claims. *Amici* request the Court to urge that the Supreme Court reconsider *Jones*.

Dated: June 5, 2025

Respectfully submitted,

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### **CERTIFICATE OF COMPLIANCE**

I certify that this brief complies with the word limit of Fed. R. App. P. 29(a)(5) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 6,210 words.

I certify that this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft 365 in Century Schoolbook 14-point font in the body, 13-point font in the footnotes.

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## CERTIFICATE OF SERVICE

I certify that on June 5, 2025, this motion was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

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