

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON
Plaintiff-Adverse Party

v.

DAVID AYON-URBANO
Defendant-Relator

SC S072084

Marion County Circuit Court Nos.
24CR31979 & 24CN05648
(consolidated)

MANDAMUS PROCEEDING

DAVID AYON-URBANO
Plaintiff-Relator

v.

META PLATFORMS, INC.
Defendant-Adverse Party

**BRIEF FOR THE UNITED STATES AS AMICUS CURIAE
SUPPORTING DEFENDANT META PLATFORMS, INC.**

Proceeding in Mandamus from the Order of the Marion County Circuit Court,
Honorable Jennifer K. Gardiner, Marion County Circuit Court Judge

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TABLE OF CONTENTS

Table of Authorities ii

Interest of Amicus Curiae1

Statement of the Issue1

Statement of the Case.....1

Argument.....5

 I. The SCA does not prevent Ayon-Urbano from obtaining the
 contents of others’ communications.....5

 II. Quashing Ayon-Urbano’s subpoena to Meta did not violate
 his compulsory process rights.9

 A. Quashing Ayon-Urbano’s subpoena did not violate his
 compulsory process rights because the SCA advances
 legitimate privacy interests in a manner that is neither
 arbitrary nor disproportionate to those interests.9

 B. Ayon-Urbano’s “history-and-tradition” argument is
 without merit.14

Conclusion19

Certificate of compliance20

TABLE OF AUTHORITIES

Cases

<i>Carpenter v. United States</i> , 585 U.S. 296 (2018).....	16
<i>Chambers v. Mississippi</i> , 410 U.S. 284 (1973)	9
<i>Facebook, Inc. v. Wint</i> , 199 A.3d 625 (D.C. Ct. App. 2019)	7, 8, 11, 12
<i>Gov’t of Virgin Islands v. Mills</i> , 956 F.2d 443 (3d Cir. 1992)	11
<i>Hillsborough County v. Automated Medical Laboratories, Inc.</i> , 471 U.S. 707 (1985).....	18
<i>Hohn v. United States</i> , 524 U.S. 236 (1998).....	15
<i>In re Grand Jury Subpoena</i> , 828 F.3d 1083 (9th Cir. 2016)	13
<i>Mallory v. Norfolk S. Ry. Co.</i> , 600 U.S. 122 (2023).....	14
<i>Michigan v. Lucas</i> , 500 U.S. 145 (1991).....	10, 15
<i>New York State Rifle and Pistol Ass’n, Inc. v. Bruen</i> , 597 U.S. 1 (2022)	14
<i>O’Grady v. Superior Court</i> , 44 Cal. Rptr. 3d 72 (Cal. Ct. App. 2006).....	8
<i>Pennsylvania v. Ritchie</i> , 480 U.S. 39 (1987).....	9
<i>Rock v. Arkansas</i> , 483 U.S. 44, 55 (1987).....	9, 10
<i>Rodriguez de Quijas v. Shearson/Am. Express, Inc.</i> , 490 U.S. 477 (1989).....	14, 15
<i>State v. Bowers</i> , 405 Wis.2d 716 (Wis. 2022)	17
<i>State v. Bray</i> , 363 Or. 226 (2018).....	7
<i>State v. Lajoie</i> , 316 Or. 63 (1993).....	10, 11
<i>Taylor v. Illinois</i> , 484 U.S. 400 (1988).....	9, 17
<i>United States v. Glenn</i> , 341 F.R.D. 217 (N.D. Ohio 2022)	7, 12

<i>United States v. Kerley</i> , 784 F.3d 327 (6th Cir. 2015)	11
<i>United States v. Pierce</i> , 785 F.3d 832 (2d Cir. 2015).....	7
<i>United States v. Rosenow</i> , 50 F.4th 715 (9th Cir. 2022)	17
<i>United States v. Scheffer</i> , 523 U.S. 303 (1998)	10
<i>United States v. Warshak</i> , 631 F.3d 266 (6th Cir. 2010).....	17
<i>United States v. Zelaya-Veliz</i> , 94 F.4th 321 (4th Cir. 2024).....	17
<i>Washington v. Texas</i> , 388 U.S. 14 (1967)	15, 16
Statutes	
Or. Rev. Stat. § 136.580.....	8
Stored Communications Act (SCA), 18 U.S.C. §§ 2701-2713	passim

INTEREST OF AMICUS CURIAE

Defendant David Ayon-Urbano argues that the Stored Communications Act (SCA), 18 U.S.C. §§ 2701-2713, which prohibits his subpoena to Meta for the contents of others' communications, violates his compulsory process rights under the Sixth Amendment of the federal Constitution and Article I, section 11 of the Oregon Constitution. The United States has a substantial interest in defending the constitutionality of federal statutes. The issue in this case is whether a criminal defendant can subpoena the contents of others' electronic communications directly from service providers. Such subpoenas could seek to compel disclosure of the communications of federal law-enforcement officers, as well as victims and government witnesses in federal cases. The United States therefore has a substantial interest in the resolution of this case.

STATEMENT OF THE ISSUE

Whether the trial court, in quashing Defendant Ayon-Urbano's subpoena to Meta for the contents of others' communications, correctly concluded that the Stored Communications Act (SCA) did not violate his rights under the Compulsory Process Clause of the Sixth Amendment to the federal Constitution.

STATEMENT OF THE CASE

The State of Oregon charged Ayon-Urbano with murder in the second degree with a firearm and unlawful use of a weapon with a firearm. ER-1. These charges rested on the allegation that Ayon-Urbano shot and killed Decedent . on June

23, 2024. ER-1. In an effort to develop a self-defense claim, Ayon-Urbano moved for an order authorizing him to serve a subpoena on Meta for information regarding four Instagram accounts. ER-2 to ER-14. In support of that motion, counsel for Ayon-Urbano stated that he believed that two of the accounts belonged to Decedent [REDACTED] and that two belonged to [REDACTED], a witness to the shooting. ER-6 to ER-7. Counsel for Ayon-Urbano believed that on the night of the shooting, Todd had been with Ayon-Urbano, had communicated with Decedent [REDACTED] on Instagram, and had arranged the encounter between Ayon-Urbano and Decedent [REDACTED]. ER-7 to ER-8.

For each of the targeted Instagram accounts, Ayon-Urbano sought: (1) specified identity information, such as name and profile information; (2) location information from June 22 to June 24, 2024; and (3) contents of communications, including calls, mail, messages, and search history, from March 6 to June 24, 2024. ER-13 to ER-14. The trial court granted Ayon-Urbano's request to issue the subpoena to Meta. ER-15.

Meta objected to the subpoena via letter, stating that the subpoena was barred by 18 U.S.C. § 2702(a) of the Stored Communications Act ("SCA"). ER-16 to ER-21. Section 2702(a) sets forth a broad prohibition on disclosure of the contents of communications by providers of electronic communication service or remote computing service, and § 2702(b) sets forth the exceptions to that prohibition. 18

U.S.C. § 2702(a), (b). Meta asserted that the subpoena was barred by § 2702(a) and did not fall within the exceptions of § 2702(b). ER-16 to ER-17. Meta also raised procedural objections to the subpoena, such as manner of service. ER-18 to ER-19. Meta characterized the subpoena as “facially invalid” and did not produce the records sought. ER-20.

Ayon-Urbano then filed a contempt action against Meta. ER-22 to ER-47. First, Ayon-Urbano argued that a criminal defense attorney is a “governmental entity” authorized to seek legal process under 18 U.S.C. § 2703, which sets forth procedures that governmental entities must follow to compel disclosure of information from communications service providers. ER-29 to ER-34. Second, Ayon-Urbano argued that otherwise, the SCA violates his constitutional compulsory process rights. ER-34.

After briefing and argument, the trial court dismissed Ayon-Urbano’s contempt claim and quashed the subpoena. ER-314 to ER-315, ER-322 to ER-324. The trial court assumed without deciding that any procedural defects in the subpoena could be cured. ER-322. The trial court found that Ayon-Urbano’s counsel was not a “governmental entity” under the SCA and could not obtain legal process under the SCA to compel disclosure of the contents of user communications. ER-322; 18 U.S.C. § 2703. In addition, the court held that the SCA did not violate Ayon-Urbano’s compulsory process rights under the Sixth Amendment or the Oregon

Constitution. ER-323. The court explained: “Defendant has alternative means to obtain the information he seeks. He can issue legal process to the account holders to obtain the data he seeks.” ER-323. The court further found that “Defendant has not met the necessary threshold of demonstrating that the evidence sought is material and favorable before conducting an Art. 1 Section 11 inquiry into the right to compulsory process under the Oregon Constitution.” ER-323. The court stated that its conclusion “aligns with precedent that compulsory process rights may be subordinated to other legitimate interests in the criminal trial process.” ER-323.

Ayon-Urbano petitioned this Court for mandamus relief. On November 6, 2025, this Court issued an alternative writ of mandamus directing the trial court to vacate the order quashing Ayon-Urbano’s subpoena or to show cause for not doing so within 14 days. The trial court did not vacate the order. On December 1, 2025, this Court set a briefing schedule for this matter. Before this Court, Ayon-Urbano no longer argues that a criminal defense attorney is a “governmental entity” authorized to seek legal process under the SCA. *See Relator’s Brief on the Merits* (hereinafter, “RBM”) at 12 n.6. In his merits brief, he argues that the SCA, as applied to him, violates the Compulsory Process Clauses of the Oregon Constitution and the Sixth Amendment, because it “bars a criminal defendant, but not the state, from accessing electronic communications for service providers like Meta.” RBM at 4. He does not raise a facial challenge to the SCA. RBM at 2 n.1.

ARGUMENT

I. THE SCA DOES NOT PREVENT AYON-URBANO FROM OBTAINING THE CONTENTS OF OTHERS' COMMUNICATIONS

The Stored Communications Act (SCA), 18 U.S.C. §§ 2701-2713, does not preclude defendants like Ayon-Urbano from acquiring the contents of third-party communications. Rather, it forecloses one particular means of doing so – issuing subpoenas to the third parties' communications service providers – while allowing defendants to compel the same evidence directly from those third parties.

The SCA sets forth a system of statutory privacy protections for customers and subscribers of communications service providers. This system has three main substantive components. First, § 2701 prohibits unauthorized access to a facility through which an electronic communication service is provided and thereby obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage in such system. Second, § 2702 regulates disclosure by communications service providers of content and non-content information, both to governmental and non-governmental entities. Third, § 2703 sets forth procedures by which governmental entities can compel communications service providers to disclose stored content and non-content information.

The trial court correctly determined that the SCA prohibits Ayon-Urbano's subpoena to Meta for the contents of others' communications. ER-322 to ER-323.

In particular, the plain language of § 2702 unambiguously states that service providers “shall not knowingly divulge to any person or entity the contents” of covered communications. 18 U.S.C. § 2702(a)(1), (a)(2). Section 2702(b) then provides nine exceptions under which “[a] provider described in subsection (a) may divulge the contents of a communication.” 18 U.S.C. § 2702(b)(1)-(b)(9). These exceptions include, *inter alia*, disclosure to an intended recipient, disclosure pursuant to consent, and disclosure pursuant to legal process under 18 U.S.C. § 2703. *See* 18 U.S.C. § 2702(b)(1)-(3). These exceptions do not include disclosure of content pursuant to a subpoena from non-governmental entities, including criminal defendants. Ayon-Urbano has not claimed that the contents of any of the communications he seeks would fall into any of the § 2702(b) exceptions. Accordingly, because the contents of the communications sought by Ayon-Urbano are covered by the prohibition of § 2702(a) and do not fall within any of the § 2702(b) exceptions, the SCA does not allow him to subpoena them from Meta.

Compulsory process provisions available for governmental entities are set forth at length in § 2703 of the SCA and expressly included as exceptions to the disclosure prohibitions of § 2702. *See* 18 U.S.C. §§ 2702, 2703. Regarding the contents of communications, § 2702(b)(2) permits disclosure “as otherwise authorized in section . . . 2703.” 18 U.S.C. § 2702(b)(2). In turn, § 2703(a) and (b)

set forth detailed authorities for governmental entities to compel disclosure of the contents of communications held by service providers.

Ayon-Urbano cannot issue or obtain legal process under § 2703. As this Court recognized in *State v. Bray*, 363 Or. 226, 231 (2018), a defendant is not a “governmental entity.” See 18 U.S.C. § 2711(4) (defining “governmental entity”). As a result, this Court held that “[a] person like defendant, who is a nongovernmental entity, cannot require a remote computing service, such as Google, to divulge the contents of communications.” *Bray*, 363 Or. at 231. Other courts have uniformly agreed that the SCA prohibits defendants from subpoenaing the contents of communications directly from service providers. In *Facebook, Inc. v. Wint*, 199 A.3d 625, 628-33 (D.C. Ct. App. 2019), the D.C. Court of Appeals adopted this interpretation of the SCA after a lengthy analysis of the SCA’s language, structure, legislative history, and policy. Other courts have reached the same conclusion. See, e.g., *United States v. Glenn*, 341 F.R.D. 217, 222 (N.D. Ohio 2022) (granting Facebook motion to quash defendant’s subpoena and stating that “[c]ourts have routinely quashed subpoenas in criminal matters involving Meta under the SCA”); *United States v. Pierce*, 785 F.3d 832, 842 (2d Cir. 2015) (stating that “[t]he SCA does not, on its face, permit a defendant to obtain” the contents of electronic communications).

However, the SCA does not limit defendants' ability to issue subpoenas directly to account holders for the contents of their communications; it prohibits disclosures only by providers of electronic communication service or remote computing service. *See* 18 U.S.C. § 2702(a). That is, the SCA "does not prohibit subpoenas directed at senders or recipients rather than providers." *Wint*, 199 A.3d at 631. The SCA therefore does not bar Ayon-Urbano from obtaining the contents of the communications he seeks; it merely channels him away from subpoenaing them from Meta. He is free to direct subpoenas for contents of communications to and Decedent executor or next of kin pursuant to Or. Rev. Stat. § 136.580. As one court recognized, "it would be far from irrational for Congress to conclude that one seeking disclosure of the contents of email, like one seeking old-fashioned written correspondence, should direct his or her effort to the parties to the communication and not to a third party who served only as a medium and neutral repository for the message." *O'Grady v. Superior Court*, 44 Cal. Rptr. 3d 72, 88 (Cal. Ct. App. 2006).

Further, Ayon-Urbano's arguments challenging the constitutionality of the SCA do not apply to its non-content provisions, because the SCA does not prohibit Ayon-Urbano from subpoenaing non-content information from Meta. The SCA prohibits service providers from divulging non-content information only to governmental entities. *See* 18 U.S.C. § 2703(a)(3). In addition, the SCA explicitly

permits disclosure of non-content information “to any person other than a governmental entity.” 18 U.S.C § 2702(c)(6).

II. QUASHING AYON-URBANO’S SUBPOENA TO META DID NOT VIOLATE HIS COMPULSORY PROCESS RIGHTS.

A. Quashing Ayon-Urbano’s subpoena did not violate his compulsory process rights because the SCA advances legitimate privacy interests in a manner that is neither arbitrary nor disproportionate to those interests.

The trial court did not violate Ayon-Urbano’s Sixth Amendment compulsory process rights when it quashed his subpoena to Meta. The Compulsory Process Clause states that a defendant shall have the right “to have compulsory process for obtaining witnesses in his favor.” U.S. Const. Amend. VI. The Supreme Court interprets this right to encompass both “the right to the government’s assistance in compelling the attendance of favorable witnesses at trial” and “the right to put before a jury evidence that might influence the determination of guilt.” *Taylor v. Illinois*, 484 U.S. 400, 408 (1988) (quoting *Pennsylvania v. Ritchie*, 480 U.S. 39, 56 (1987)). But the Court has also held that the right to compulsory process is not “without limitation” and “may, in appropriate cases, bow to accommodate other legitimate interests in the criminal trial process.” *Rock v. Arkansas*, 483 U.S. 44, 55 (1987) (quoting *Chambers v. Mississippi*, 410 U.S. 284, 295 (1973)). *Rock* held that the right to testify was found in both the Compulsory Process Clause and the Fourteenth Amendment, and that “restrictions of a defendant’s right to testify may not be

arbitrary or disproportionate to the purposes they are designed to serve.” *Rock*, 483 U.S. at 51-52, 55-56.

The Supreme Court applied that principle in *Michigan v. Lucas*, 500 U.S. 145, 153 (1991), vacating a state court decision that had adopted a *per se* rule that a notice-and-hearing requirement of the state’s rape shield law violated the Sixth Amendment when it precluded evidence of a past sexual relationship between a victim and a defendant. The Supreme Court found that the notice-and-hearing requirement supported “legitimate state interests,” including “protection against surprise, harassment, and unnecessary invasions of privacy.” *Id.* at 149-50. The Supreme Court applied similar reasoning in *United States v. Scheffer*, 523 U.S. 303 (1998), in upholding a military rule that excluded polygraph evidence in all military trials. The Court held that the rule “is a rational and proportional means of advancing the legitimate interest in barring unreliable evidence.” *Id.* at 312.

This Court has applied this Sixth Amendment compulsory process standard, under which restrictions on compulsory process rights must support legitimate state interests and must not be arbitrary or disproportionate to those interests. In *State v. Lajoie*, 316 Or. 63 (1993), this Court addressed a Sixth Amendment Compulsory Process Clause challenge to the Oregon rape shield law. *Lajoie* stated that “to determine the constitutionality of preclusion under the Sixth Amendment, we must determine whether the purposes that [the rape shield law] is designed to serve justify

the limitation that the rule imposes on a defendant's constitutional rights or whether, instead, that limitation is arbitrary or disproportionate to those purposes.” *Id.* at 79. *Lajoie* upheld preclusion of evidence of a victim’s past sexual behavior as sanction for the defendant’s failure to comply with the statute’s 15–day notice requirement, finding that the statute was “neither arbitrary nor disproportionate to the purposes that it is intended to serve.” *Id.* at 81.

Federal courts of appeals have also often applied this standard. *See, e.g., United States v. Kerley*, 784 F.3d 327, 342 (6th Cir. 2015) (“Unless the particular rule of evidence ‘serve[s] no legitimate purpose’ or is ‘disproportionate to the ends that ... [it is] asserted to promote,’ a trial court’s application of the rule to exclude defense evidence will not offend the Constitution.”); *Gov’t of Virgin Islands v. Mills*, 956 F.2d 443, 446 (3d Cir. 1992) (holding that in order to establish a violation of his right to compulsory process, defendant was required to establish: “First, that he was deprived of the opportunity to present evidence in his favor; second, that the excluded testimony would have been material and favorable to his defense; and third, that the deprivation was arbitrary or disproportionate to any legitimate evidentiary or procedural purpose.”).

Applying this standard, quashing Ayon-Urbano’s subpoena to Meta does not violate his Sixth Amendment compulsory process rights. The SCA serves a legitimate governmental interest in protecting privacy. *See Wint*, 199 A.3d at 631

(stating that § 2702 “advances a significant interest”). In addition, its mechanism for protecting privacy is rational and proportional to that governmental interest. *See id.* (stating that § 2702 “does not lead to irrational or absurd results”). Most importantly, the SCA does not place the contents of the Meta accounts Ayon-Urbano seeks beyond the reach of a subpoena. Instead, the SCA requires him to direct his subpoena to the account holders (and the Decedent executor or next of kin). As the D.C. Court of Appeals explained, “channeling such discovery to senders or recipients, rather than providers, increases the chances that affected individuals can assert claims of privilege or other rights of privacy before covered communications are disclosed to criminal defendants in response to subpoenas.” *Wint*, 199 A.3d at 631; *see also Glenn*, 341 F.R.D. at 222-23 (“Thus, while the SCA prohibits Defendant's ability to subpoena Meta for the sought after communications, it does not leave him without alternative methods for the information he seeks. Accordingly, the court determines that Defendant’s argument that the SCA is unconstitutional is not well-taken.”).

Ayon-Urbano’s subpoena itself illustrates why it is appropriate for the SCA to channel subpoenas to account holders rather than service providers. The subpoena seeks the contents of all communications in the four targeted accounts for a period of more than three months. ER-13 to ER-14. It is not limited by subject matter to communications relevant to his claim of self-defense. Such a subpoena is likely

overbroad. For example, in *In re Grand Jury Subpoena*, 828 F.3d 1083, 1087 (9th Cir. 2016), former Governor of Oregon John Kitzhaber’s personal emails had been archived on Oregon’s computer servers, and the United States sought to obtain them via a subpoena that was not limited by subject matter. Kitzhaber moved to quash, and the Ninth Circuit found that the district court should have quashed the subpoena because the subpoena did not “limit the documents demanded to those within the scope of the government’s legitimate concern” and thus was “unreasonably overbroad” and “analogous . . . to a general warrant.” *Id.* at 1088. Here, the account holders of the accounts targeted by Ayon-Urbano are in the best position to move to quash his subpoena if its scope sweeps too broadly. Thus, Congress did not act arbitrarily when it required that subpoenas for such contents be directed to the account holders rather than service providers.¹

¹ The SCA permits a defendant to use an additional tool that Ayon-Urbano has not sought to employ here: a subpoena for the to/from information associated with communications in the targeted accounts. The SCA only limits disclosure of non-content information to governmental entities, and it explicitly allows disclosure of non-content information “to any person other than a governmental entity.” 18 U.S.C. § 2702(a)(3), (c)(6). Thus, for example, the SCA does not restrict Ayon-Urbano from subpoenaing Meta for the to/from information associated with any communications between [redacted] and Decedent [redacted] on the night of the shooting. His subpoena did not seek that information. ER-13 to ER-14. Such non-content information from a service provider might assist a defendant seeking to subpoena the contents of communications from an account owner, as it may help the defendant establish the existence of the communications he seeks from the account holder.

B. Ayon-Urbano’s “history-and-tradition” argument is without merit.

Ayon-Urbano’s argument that the trial court violated his compulsory process rights primarily relies not on existing compulsory process doctrine, but instead on a history-and-tradition argument that draws from the Supreme Court’s Second Amendment analysis in *New York State Rifle and Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). RBM at 14. After a lengthy survey of the history of the Compulsory Process Clause, he asserts that “[t]he animating purpose of the right to compulsory process is to eliminate procedural imbalances” between the government and a defendant. RBM at 27. This argument lacks merit for at least three reasons: (1) lower courts must apply existing Supreme Court precedent and leave it to the Supreme Court to overrule its own precedent; (2) the parity principle urged by Ayon-Urbano would not help him here because no undue “procedural imbalance” exists between the legal process available to him and the legal process available to the government; and (3) Ayon-Urbano’s argument that the SCA violates his compulsory process rights under the Oregon Constitution fails under the Supremacy Clause.

First, the Supreme Court has repeatedly made clear that lower courts must follow existing Supreme Court precedents until the Supreme Court itself reverses them. *See, e.g., Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 136 (2023) (stating that “a lower court ‘should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions’”) (quoting *Rodriguez de*

Quijas v. Shearson/Am. Express, Inc., 490 U.S. 477, 484 (1989)); *Hohn v. United States*, 524 U.S. 236, 252–53 (1998) (“Our decisions remain binding precedent until we see fit to reconsider them, regardless of whether subsequent cases have raised doubts about their continuing vitality.”).

Ayon-Urbano urges a different approach, arguing that “[t]o the extent that state or federal jurisprudence has strayed away from those animating principles [found in opinions of Chief Judge Marshall while presiding in the Aaron Burr case], this court should right the path.” RBM at 28-29. He concedes that the Supreme Court held in *Lucas* that compulsory process rights “may, in appropriate cases, bow to accommodate other legitimate interests in the criminal trial process,” but he asserts that “[i]t is unclear whether *Lucas* would survive today.” RBM at 38. Existing Supreme Court precedent is not inconsistent with the history and tradition of the Compulsory Process Clause. But in any event, lower courts may not “right the path” of the Supreme Court, and Ayon-Urbano’s concession that existing Supreme Court doctrine does not support him is fatal to his argument.

Ayon-Urbano also cites *Washington v. Texas*, 388 U.S. 14 (1967), *see* RBM at 40, but that case does not support his argument that the SCA violates his right to compulsory process. In *Washington*, the Supreme Court struck down a state law that barred accomplices from testifying for each other, on the ground that the law was “arbitrary” and “prevent[ed] whole categories of defense witnesses from testifying

on the basis of a priori categories that presume them unworthy of belief.” 388 U.S. at 22. Contrary to Ayon-Urbano’s claim, the SCA does not “make an entire category of information completely unavailable to criminal defendants.” RBM at 40. Instead, the SCA appropriately channels subpoenas for contents to account holders rather than service providers.

Second, the government in fact has no “unfair procedural advantage” over Ayon-Urbano when it comes to obtaining the contents of others’ communications. The government’s ability to obtain others’ communications is constrained by both the SCA and the Fourth Amendment. The SCA requires the government to use a search warrant to obtain the contents of electronic communications in electronic storage for 180 days or less. *See* 18 U.S.C. § 2703(a). For the contents of other communications, the SCA permits the government the option of using a subpoena or court order, but only if the government complies with SCA provisions that require notice to the customer or subscriber. *See* 18 U.S.C. § 2703(b). In sum, under the SCA, the government could not use a subpoena to Meta for contents of others’ communications without giving notice to the account holders.

The Fourth Amendment also limits the government’s ability to obtain the contents of others’ communications. In *Carpenter v. United States*, 585 U.S. 296, 319 (2018), the Supreme Court held that the government must obtain a warrant “where the suspect has a legitimate privacy interest in records held by a third party.”

Other courts have held that account owners have a protected privacy interest in the contents of their private communications stored by communication service providers. *See, e.g., United States v. Zelaya-Veliz*, 94 F.4th 321, 334 (4th Cir. 2024) (holding that the government cannot access personal communications “without meeting the warrant requirement or one of the Supreme Court’s delineated exceptions to it”); *United States v. Rosenow*, 50 F.4th 715, 738 (9th Cir. 2022) (stating that the government “does need a warrant to search” the contents of private communications); *State v. Bowers*, 405 Wis.2d 716, 750 (Wis. 2022) (finding that the government violated the Fourth Amendment when it searched defendant’s Dropbox account without a warrant); *United States v. Warshak*, 631 F.3d 266, 284–88 (6th Cir. 2010) (holding that the government may not compel disclosure of email from a commercial ISP “without first obtaining a warrant based on probable cause”).

If the government could establish probable cause to believe that the targeted Meta accounts contained evidence of crime, the government could use a search warrant to obtain that evidence, and Ayon-Urbano cannot obtain a search warrant. However, the right to compulsory process concerns a defendant’s right to compel the attendance of witnesses and right to present evidence, *see Taylor*, 484 U.S. at 408, not the right to conduct searches and seizures. The Compulsory Process Clause does not entitle a defendant to conduct searches and seizures on equal footing with the government. Such a right would extend to investigative techniques like wiretap

orders or physical searches of homes. The government has no unfair procedural advantage over Ayon-Urbano when using compulsory process to obtain others' communications.

Finally, the Supremacy Clause forecloses Ayon-Urbano's attempt to block application of the SCA through reliance on his right to compulsory process under the Oregon Constitution. *See* U.S. Const., Art. VI, cl. 2 (stating that "the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding"). Ayon-Urbano argues at length that the SCA violates his right to compulsory process under the Oregon Constitution. RBM at 29-37. Ultimately, he asserts that "[t]he trial court erred in concluding that Meta's interpretation of the Stored Communications Act, as applied to relator, does not violate his right to compulsory process under Article I, section 11." RBM at 37. This argument cannot succeed because Ayon-Urbano is arguing that the Oregon Constitution should be interpreted to conflict with federal law, and "state law is nullified to the extent that it actually conflicts with federal law." *Hillsborough County v. Automated Medical Laboratories, Inc.*, 471 U.S. 707, 713 (1985). The United States takes no position on the proper interpretation of the Oregon Constitution, but to the extent that the Oregon Constitution conflicts with the SCA, the Oregon Constitution must give way.

CONCLUSION

Ayon-Urbano's petition for a writ of mandamus should be denied.

Respectfully submitted,

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Dated March 9, 2026

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United States

CERTIFICATE OF FILING AND SERVICE

I certify that on March 9, 2026, I directed that the foregoing Brief for the United States as Amicus Curiae be e-filed.

I further certify that on March 9, 2026, I directed that the foregoing Brief of the United States as Amicus Curiae be electronically served by using the court's electronic filing system to:

Rian Peck, OSB #144012 and Zachary Stern, OSB #134967, attorneys for Defendant-Relator Ayon-Urbano;

Sarah Crooks, OSB #971512, attorney for Defendant-Adverse Party Meta Platforms, Inc.; and

Leigh Salmon, OSB #054202, attorney for Plaintiff-Adverse Party State of Oregon.

I further certify that this brief will be served to Ginger Mooney, OSB #031261, attorney for Defendant-Relator Ayon-Urbano, via email to the following email address: contact@mooneylaw.org.

I further certify that this brief will be served to Honorable Jennifer K. Gardner via U.S. Mail delivery to the following address:

Honorable Jennifer K. Gardiner
Marion County Circuit Court
P.O. Box 12869
Salem OR 97309

Dated March 9, 2026

Respectfully submitted,

/s/ Scott E. Bradford

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