

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Nathan Craft — PETITIONER
(Your Name)

vs.

Willie Bonds, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United State District Court, New Jersey
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Nathan Craft
(Your Name)

215 Burlington Road South
(Address)

Bridgeton, New Jersey 08302
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

When pro-se litigant's 4th amendment consent search claim is misunderstood and misstated, can *Stone v. Powell* 428 U.S. 465,494 (1976) standard of illegal evidence be applied to consent search issues in conflict with supreme court of the United States rule "that consent be voluntary" *Schneckloth v. Bustamonte* 412 U.S. 218,248-249 (1973) ?

When pro-se litigants upon properly restating claim, that is not squarely foreclosed by statute, rule, authoritative court decision, or lacking any factual basis in the record, be denied Habeas Corpus Relief, certificate of appealability, or rehearing en banc in conflict with the standard set forth in *Barefoot v Estelle* 463 U.S. 880,893 n.4 894 (1983)?

Will pro se litigants lacking legal counsel and legal know how, be held in violation of the constitution for misunderstanding and misstating 4th amendment consent search claims. Causing the claims to be barred by the standard of *Stone v. Powell* 428 U.S. 465, 494 (1976). Instead of the voluntary consent standard as set forth in *Schneckloth v. Bustamonte* 412 U.S. 218, 248-249 (1973)?

Are 4th amendment claims of consent search barred by the rule *Stone v. Powell* 428 U.S. 465,494 (1976), or an affirmative defense to a illegal search claim under *Schneckloth v. Bustamonte* 412 U.S. 218,248-249 (1973)?

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Willie Bonds, et al
215 Burlington Road South
Bridgeton, New Jersey 08302

New Jersey Attorney General
P.O. Box 080
Trenton, NJ 08625

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix E to the petition and is

☐ reported at 15th Cir. opinion cert.; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix D to the petition and is

☒ reported at Craft v. Bonds, No. 17-1221; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☒ reported at 17-76; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Middlesex County Superior court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JANUARY 31 2018.

[] No petition for rehearing was timely filed in my case.

[☒] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: JANUARY 31, 2018, and a copy of the order denying rehearing appears at Appendix F.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

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

[] For cases from **state courts**:

The date on which the highest state court decided my case was 2/8/2016.
A copy of that decision appears at Appendix A.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4th Amendment

The right of the people to be secure in their persons ,houses ,papers ,and effects, against un reasonable searches and seizures shall not be violated , and no warrants shall be issued but upon probable cause supported by oath or affirmation and particularly describing that place to be searched ,and the persons or things to be seized.

28 U.S.C. 2254 (A)

The supreme court ,a justice thereof ,a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgement of a state court only on the grounds that he is in custody in violation of the constitution, or laws, or treaties of the united states.

STATEMENT OF THE CASE

The officers effectuated a motor vehicle stop. Upon request, defendant provided the officers with a valid New York drivers licenses. However, after the officers conducted a record –check, it was determined that defendants New Jersey driving privilege was suspended. Defendant was placed under arrest for driving while suspended and was read his Miranda rights.

Officers requested defendants consent to search the car. The officers presented a consent to search form to defendant for his signature. When officer asked defendant to sign the form, defendant refused stating, "I am not signing anything. " Officer renewed his request to defendant in order to execute the form, defendant declined to sign the form, because the car did not belong to him.

The officer wrote on the form "consent granted with signature refused." The search was conducted, as a result of the search a substance later determined to be cocaine was found in the car. The judge concluded at the suppression hearing that the petitioner voluntarily gave consent to search the vehicle. The appellate court affirmed the trial courts decision to deny petitioner motion to suppress .Petitioner filed Habeas Corpus 28 U.S.C 2254, for relief.

REASON FOR GRANTING THE PETITION

Petitioner filed a writ for Habeas corpus pursuant to 28 U.S.C 2254 in New Jersey District Court. Petition was denied for failure to state a claim upon which relief can be granted. As a pro-se litigant 4th amendment consent search claim was misunderstood and misstated.

Petitioner claimed, "Evidence was obtained in violation of the 4th amendment. " This misunderstanding and misstatement of 4th amendment claim caused the standard of *Stone v. Powell* 428 U.S. 465,494 (1976) to be applied to a consent search issue.

In *Stone v. Powell* 428 U.S. 465,494 (1976) it was held "That where the state has provided an opportunity for full and fair litigation of a fourth amendment claim, a state prisoner may not be granted federal habeas corpus relief on the ground that evidence was obtained in a unconstitutional search or seizure."

However, consent search issues are governed by the standard of *Schneekloth v. Bustamonte* 412 U.S. 218, 248-249 (1973) which holds "The 4th & 14th amendments requires that the state demonstrate that the consent was, in fact, voluntarily given."

" A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief" *Haines v. Kerner* 404 U.S. 519 (1972). Petitioner as a pro-se litigant properly restated claim upon rehearing en banc for certificate of appealability. Consent search claim is not squarely foreclosed by statute, rule, authoritative court decision, or lacking any factual basis in the record as established by *Barefoot v. Estelle* 463 U.S. 880,893n.4 894 (1983).

However, petitioner was denied a certificate of appealability. Pro-se litigants lacking legal counsel and legal know how are held in violation of the constitution for misunderstanding and misstating 4th amendment consent search claims, causing the claim to be barred by *Stone v. Powell* 428 U.S. 465,494 (1976).

It is for these reasons certiorari should be granted, to address 4th amendment consent search violations that may be inartfully stated by pro-se litigants and barred for failure to state a claim upon which relief can be granted.

The issue of pro-se litigants who may misstate or misunderstand a claim, as well as the application of *Stone v. Powell* 428 U.S. 465, 494 (1976), in conflict with the rule of *Schneekloth v. Bustamonte* 412 U.S. 218, 248-249 (1973) should be resolved. To apply the rule of *Stone v Powell* 428 U.S. 465,494 (1976) to pro-se litigants who misunderstand and misstate claim, after petitioner properly restated claim in request for certificate of appealability rehearing en banc, or by panel was an unreasonable application of federal law.

The Supreme Court of the United States has ruled "decisions that correctly identifies the governing legal rule, but applies it unreasonably to the facts of a particular

prisoners case qualifies as a decision involving an unreasonable application of clearly established federal law.” William v. Taylor 529 U.S. 362, 407-408 (2000).

Fourth amendment consent search claim, has merit and factual basis in the record but for misunderstanding and misstating claim was barred.

4th amendment claims of consent search should not be barred by the rule of Stone v. Powell 428 U.S. 465, 494 (1976), and should be an affirmative defense to an illegal search claim as set forth in *Schneckloth v. Bustamonte* 412 U.S. 218, 248-249 (1973)?

At stake in petitioner’s case and others similarly situated are constitutional protections of surpassing importance. All of which pro-se litigants are denied for lacking legal counsel and legal know how to properly state claim, and upon properly restating claim of consent search are denied Habeas corpus relief and a certificate of appealability

Conclusion

Certiorari should be granted to address 4th amendment search and seizure violations, which are governed by the voluntary consent standard set forth in *Schneckloth v. Bustamonte* 412 U.S. 218, 248-249 (1973). But may be inartfully stated by pro se litigants causing the claim to be barred by the *Stone v. Powell* 428 U.S. 465, 494 (1976) standard. "A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief". *Haines v. Kerner* 404 U.S. 519. . .To resolve the issue of Pro se litigants who misstate and/or misunderstand 4th amendment consent search claims, as well as the application of *Stone v. Powell* 428 U.S. 465 standard of law in conflict with *Schneckloth v. Bustamonte* 412 U.S. 218 (1973) standard, petition for a writ of certiorari should be granted.

Respectfully submitted,

Matthews Craft

Date: April 5, 2018