

No. \_\_\_\_\_

IN THE  
**SUPREME COURT OF THE UNITED  
STATES**

**LONNIE CHARLES WILLIAMS, III.,**  
*Petitioner,*

v.

**THE STATE OF TEXAS,**  
*Respondent.*

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On Petition for a Writ of Certiorari  
to the Court of Appeals for the Second District  
of Texas at Fort Worth

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**PETITION FOR A WRIT OF CERTIORARI**

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## **QUESTION PRESENTED FOR REVIEW**

Whether reasonable suspicion under the Fourth Amendment can exist in a driving while intoxicated context when officers do not detect the odor of alcohol, the driver makes no admission to alcohol consumption, officers detect no signs of drugs, and the driver does not appear intoxicated.

## **PARTIES TO THE PROCEEDINGS**

Honorable Jim Crouch..... Trial Judge  
Lonnie Charles Williams, III.....Petitioner/Appellant  
The State of Texas .....Respondent/Appellee  
Eugina Morgan & Wendy Correa..... Trial Counsel for  
Appellee  
Brendan Hyde ..... Appellate Counsel for Appellee  
Nii Ollenu.... Trial & Appellate Counsel for Appellant  
J. Christopher Abel.....Petitioner's Counsel on Writ of  
Certiorari

## **OPINIONS BELOW**

The opinion of the Second Court of Appeals, filed on January 25, 2018, is reprinted in the Appendix hereto, pp. 1a.

The order of the Texas Court of Criminal Appeals denying discretionary review, which was rendered on August 22, 2018, is reprinted in the Appendix hereto, pp. 24a.

## **JURISDICTION**

The Second Judicial Court of Appeals for Texas entered a judgment affirming the trial court's decision on January 25, 2018. A motion for rehearing was denied by said Court on April 19, 2018. A petition for discretionary review was denied by the Texas Court of Criminal Appeals on August 22, 2018. This Honorable Court has jurisdiction over this case, as it involves the Fourth Amendment to the United States Constitution.

## **RELEVANT STATUTORY PROVISIONS**

### **Fourth Amendment to the United States Constitution**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## **REASON WHY CERTIORARI SHOULD BE GRANTED**

Review is warranted because the Texas Second Court of Appeals has decided an important question of federal law that has not been—but should be—settled by this Court.

Petitioner filed a motion to suppress evidence, arguing that his detention had been illegally prolonged and was without reasonable suspicion in violation of the Fourth Amendment. (Attached in Appendix pp.\_\_\_\_\_\_). A hearing was held on this motion where the officer testified that she detained Petitioner based largely on a 911 call placed by an identified civilian caller. However, the officer also testified that upon initial contact with Petitioner, she did not smell alcohol, noticed no alcoholic containers, discovered no evidence of drugs, and Petitioner did not seem intoxicated. The trial court denied the motion to suppress. (Attached in Appendix pp.\_\_\_\_\_\_).

On May 14, 2016, the Denton, Texas Police Department received two 911 calls involving Petitioner. The first call, from an identified civilian, reported a reckless driver, who the caller opined was intoxicated. The second 911 call was from Petitioner, who reported that another car had veered into his lane, causing him to hit a curb.

Officer Buchanan was dispatched to the scene at approximately 9:00 A.M. Upon her arrival, she observed Petitioner's vehicle and noted that it had damage to the left front wheel. She noticed that Petitioner's eyes were glossy and watery. She spoke to Petitioner and did not notice any odor of alcohol on his breath or person. There was no evidence of any drugs at the scene either. When asked if he had been

consuming alcohol, Petitioner answered in the negative. Petitioner's passenger also indicated that Petitioner had not been consuming alcohol that morning. Furthermore, Petitioner did not appear intoxicated to Officer Buchanan during this initial exchange.

Nonetheless, Officer Buchanan made the decision to prolong her detention of Petitioner based on the information relayed to her from the identified civilian caller's 911 call. She then had Petitioner perform standardized field sobriety tests and arrested him for driving while intoxicated.

Petitioner sought suppression of all evidence seized as a result of this illegally prolonged detention, citing the Fourth Amendment of the United States Constitution. The trial court denied the requested relief. Petitioner appealed to the Second Court of Appeals for Texas, arguing that his prolonged detention was violative of the Fourth Amendment.

A routine traffic stop is a detention and must be reasonable under the Fourth Amendment. To be reasonable, a traffic stop must be temporary and last no longer than necessary to effectuate its original purpose. *Ohio v. Robinette*, 519 U.S. 33, 50, 117 S. Ct. 417, 136 L. Ed. 2d 347 (1996); *see also Arizona v. Johnson*, 555 U.S. 323, 334, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009); *Terry v. Ohio*, 392 U.S. 1, 19-20, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968). Once the reason for the traffic stop has been satisfied, the stop may not be used as a "fishing expedition for unrelated criminal activity." *Davis v. State of Texas*, 947 S.W.2d 240, at 242 (Tex. Crim. App. 1997) (quoting *Robinette*, 519 U.S. at 41 (Ginsburg, J., concurring)). Rather, officers must have a reasonable suspicion of criminal activity

in order to continue detaining an individual. *Terry*, 392 U.S. at 19-20.

While Buchanan initially had reasonable suspicion to detain and question Petitioner due to the 911 call, this suspicion faded and was destroyed when she was presented with compelling evidence of the unreliability of the 911 call. The Court of Appeals held that Officer Buchanan was entitled to have Petitioner undergo field sobriety testing because of the 911 call. (Opinion p. \_\_\_\_\_, attached in Appendix pp.\_\_\_\_). The Court opined that Buchanan had corroborated enough of the information from the 911 call to justify the detention. This, however, ignores the fact that Buchanan received more information contradicting the 911 call than she did corroborating it. Indeed, after speaking to Petitioner, she did not observe an odor of alcohol or evidence of drugs. She and other officers did not believe Petitioner was intoxicated until after his performance on the field sobriety tests. Furthermore, Petitioner denied drinking any alcohol and was supported in that contention by his passenger. Also, two other witnesses supported his position that he was only involved in a traffic accident because another car veered into his lane of traffic.

It is well-established that the odor of alcohol, admission to drinking, and/or evidence of drugs will provide reasonable suspicion to detain and investigate a person for driving while intoxicated, but it has yet to be established if reasonable suspicion persists once an officer does not notice any of these clues. Petitioner respectfully requests this Honorable Court settle this issue, as Petitioner believes it decides an important question of federal law that has not been—but should be—settled by the United States Supreme Court.

## PRAYER FOR RELIEF

Wherefore, Petitioner prays that this Court overrule the opinion of the Court of Appeals upholding the Trial Court's decision to deny the motion to suppress and remand this matter to the trial court for a new trial in this cause.

Respectfully submitted,

/s/ James Christopher Abel

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November 16, 2018

