

18-7942

ORIGINAL

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Shannon Lancaster — PETITIONER
(Your Name)

vs.

James Ruane — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U. S. Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Shannon Lancaster
(Your Name)

430 Oaklawn Road
(Address)

Pelzer, S.C. 29669
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1.) Whether Appellee violated the Appellant's Fourth Amendment right of privacy and the South Carolina Homeland Security Act? S.C. Code § 17-30-10 through § 17-30-145

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:

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1) S.C. Code § 17-30-70 and § 17-30-80(D)(1)	page 6, 9
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OTHER

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 A to the petition and is

- [] reported at _____; 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[✓] is unpublished.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 B to the petition and is

- [] reported at _____; 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[✓] is unpublished.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 N/A to the petition and is

- [] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the N/A court appears at Appendix N/A to the petition and is

- [] reported at N/A; 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[] is unpublished.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 October 26, 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.
- [] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/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 N/A. A copy of that decision appears at Appendix .

- [] A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on (date) in Application No. N/A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides a constitutionally protected right to privacy: Title III and the South Carolina Homeland Security Act both prescribes the procedure for securing judicial authority to intercept Wire, Electrical, or Oral communications in the investigation of specified serious offenses. See: SC. Code § 17-30-10 through § 17-30-145. Therefore, the Fourth Amendment ensures that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated "U.S. Const. amend. IV." Broadly, "a Fourth Amendment search occurs when the government violates a subjective expectation of privacy that society recognizes as reasonable."

STATEMENT OF THE CASE

The Fourth Circuit Court of Appeals' decision affirms the United States District Court's order which is based upon factual errors.

The District Court erred when it determined that the defendant was legally competent to "give prior consent" to the interception. (District Court Order, page 7, ft note 6.)

The legal fact is, only a "judge of competent jurisdiction" who may "grant... an order authorizing or approving the interception of wire, oral, or electrical communication." S.C. Code § 17-30-70 (A)

See supporting arguments, attached

Statement of the case

The court of appeals in this case held that no reversible error in the record. Therefore, the court of appeals affirmed for the reasons stated by the district court.

1.) The district court stated the defendant Investigator James Ruane was acting "under color of law" during the commission of his undercover investigation. Also, the district court noted, that Investigator James Ruane was a party to the communications that was recorded, and furthermore, the defendant's actions were lawful, and recorded by the confidential reliable informant.

Furthermore, Petitioner attempted to amend a copy of the original narrative, by "Investigator James Ruane", to the 1983 complaint. The district court denied the amendment. The amendment was to give evidence to the district court, that Investigator James Ruane was in possession of the audio/video recording device, and further, unlawfully recorded audio and video, in this incident. Again, the informant did not possess the audio/video recording device or the recorded Sheriff's Office Funds. Id: Original Narrative / Appendix C. Investigator James Ruane exchanged the recorded Sheriff Office Funds for a bag of crystal like substance, and illegally recorded the

audio and video, not the informant. Id: Original Narrative / Appendix C.

First, the Investigator James Ruane failed to process an application for the interception of wire, electrical, or Oral communications for a drug trafficking offense, pursuant to S.C. Code § 17-30-70. The application must be initiated by the Chief of Sled. After reviewing the application the Attorney General or his Assistant Attorney General may authorize the submission of the application to a judge of competent jurisdiction, and the judge may grant in conformity with this chapter.

Second, the Investigator James Ruane failed to have a judge of competent jurisdiction enter an ex parte order, as modified authorizing the interception of wire, oral, or electrical communications within the territorial jurisdiction of the court in which the judge is sitting, pursuant to S.C. Code § 17-30-80 (D)(1).

Thus, the Defendant James Ruane, did knowingly, intentionally, and intelligently record audio and video without filing any application, nor receiving any order as prerequisite under Title 17, Chapter 30, subsection 70, which is consistent

with Federal Title III of the Omnibus crime control and Safe Streets Act of 1968. (Codified in 18 U.S.C. §§ 2510 - 2522) Furthermore, Title III of the Omnibus crime control and Safe Streets Act of 1968, prohibits electronic surveillance of criminal suspects unless law enforcement officials comply with specified privacy safeguards. The court must here determine whether the Government sufficiently complied with the required application procedures for the Interception of Wire, Electric, or Oral communications act. See U.S. v. Giordano, 416 U.S. 508. Title III does not permit law enforcement officials to use wiretapping and electronic surveillance for all criminal investigations, but only in connection with the investigation of certain specified crimes. It also contains strict controls governing the issuance of wiretap warrants, and limits the use of wiretaps, in criminal investigations. Because congress recognized the grave threat to privacy that wiretaps pose, it spelled out "in elaborate and generally restrictive detail" the process by which wiretaps may be applied for and authorized: and without the application and authorization procedures being adhered to by the Defendant James Ruane, he lacked authority to use such tactics and/or

actions to gather evidence, and therefore, the Defendant acting under color of state law, engaged in an "unlawful, unreasonable, and arbitrary investigation." Nevertheless, the Defendant conducted an unreasonable search, by unlawfully recording audio and video, without any authorizing order approved, by a circuit court judge. Furthermore, this illegal act by the Defendant James Ruane has now brought the Plaintiff seeking damages for the deprivation of civil rights resulting from the use of such unconstitutional procedures. Which is now properly before the court and requires a determination of the validity of the procedures by the Defendant/State actor, it did cause a deprivation of the Plaintiff's 14th Amendment right of Due Process of law which flowed an illegal invasion of a constitutionally protected Fourth Amendment right to privacy. The Fourth Amendment, of course, constrains state and federal officials only; it has no applicability to private parties.

Furthermore, the court of appeals and the district court erred in their third-party doctrine in this case. The third-party doctrine does not apply to this case, because Investigator James Ruane recorded the audio and video, not the informant. Therefore, the government does engage in a Fourth Amendment "search" because

(8)

it failed to use the third-party to record the audio and video.

Additionally, in this incident, the Investigator James Ruane failed to have the informant "David Brent Goode" registered, or in a contract with the South Carolina Law Enforcement Division, for a drug trafficking investigation. The Investigator James Ruane violated Sled Policy 13.30 "Use of informants in investigations and "informant agreement." Also, the interception of audio and video, for a drug trafficking offense, must be conducted in the direct supervision of an officer of the South Carolina Law Enforcement Division, pursuant to S.C. Code § 17-30-70 (3). Investigator James Ruane failed to have the South Carolina Law Enforcement Division involved in this investigation

REASONS FOR GRANTING THE PETITION

Appellant has been deprived of his constitutional protection against invasion of his privacy by Appellee; he has suffered irreparable damages as a direct and proximate result of Appellee's actions and will continue to suffer some unless and until this court intervenes in Appellant's behalf. For this court to refuse to rule in his behalf will result in manifest injustice to the damage of Appellant.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Shannon Lancaster

Date: January 9, 2019