

No. 18-8084

ORIGINAL

Supreme Court, U.S.
FILED

FEB 19 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

WARRIEN SCOT TAYLOR — PETITIONER
(Your Name)

vs.

COMMONWEALTH OF V.A. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

VIRGINIA SUPREME COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WARRIEN SCOT TAYLOR
(Your Name)

212 WEST MAIN STREET APT 2-3
(Address)

LURAY VA 22835
(City, State, Zip Code)

1-540-743-1133
(Phone Number)

② WHY DID THE VIRGINIA SUPREME COURT REFUSE THE PETITION FOR APPEAL THE PAGE COUNTY CIRCUIT COURT ERRORED BY DENYING A ORDER OF EXPUNGEMENT FOR ~~REFUSAL~~ POLICE AND COURT RECORDS OF THE REFUSAL CHARGE THAT WAS RULED A NOBIL PROSECUTION ON NOVEMBER 2, 1995 IF A ORDER OF EXPUNGEMENT WERE ISSUED TO EXPUNGE THE POLICE AND COURT RECORDS FOR THE REFUSAL CHARGE THAT WAS RULED A NOBIL PROSECUTION ON NOVEMBER 2, 1995 THAT WOULD EXPUNGE THE POLICE AND COURT RECORDS OF THE NOVEMBER 2, 1995 D.V.I CONVICTION BECAUSE THE RECORDS OF THE REFUSAL CHARGE AND NOVEMBER 2, 1995 D.V.I CONVICTION ARE RELATED RECORDS AND IF THE POLICE AND COURT RECORDS OF THE NOVEMBER 2, 1995 MATTER WERE EXPUNGED THAT WOULD EXPUNGE THE POLICE AND COURT RECORDS FOR THE JUNE 26, 2001 FELLOW D.V.I CONVICTION AND EXPUNGE THE JUNE 26, 2001 ELECTRONIC CRIMINAL HISTORY RECORD RECORD FROM THE VIRGINIA STATE POLICE RECORD ON PAGE TWENTY TWO OF PAGE COUNTY CIRCUIT COURT RECORD NUMBER C1-18-80 BECAUSE THE RECORDS OF THE NOVEMBER 2, 1995

AND JUNE 26, 2001 RECORDS ARE RELATED RECORDS

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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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 _____ 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☐ is unpublished.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 _____ 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 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 NABE CIRCUIT COURT 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.

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JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ 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: _____, 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. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was November 28, 2018
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

VIRGINIA CODE 19.2-392.2 EXPUNGEMENT OF POLICE AND COURT RECORDS STATUTE (A)
 IF A PERSON IS CHARGED WITH THE COMMISSION OF A CRIME OR ANY OFFENSE
 DEFINED IN TITLE 18.2 AND (1) IS ACQUITTED OR (2) A NO-BILL PROSECUT IS
 TAKEN OR THE CHARGE IS OTHERWISE DISMISSED INCLUDING DISMISSAL BY ALACORD
 AND SATISFACTION PURSUANT TO 19.2-151 HE MAY FILE A PETITION SETTING FORTH THE
 RELEVANT FACTS AND REQUESTING EXPUNGEMENT OF THE POLICE RECORDS AND THE
 COURT RECORDS RELATING TO THE CHARGE. SECTION (E) OF VA CODE 19.2-392.2 STATES
 AFTER RECEIVING THE CRIMINAL HISTORY RECORD INFORMATION FROM THE CENTRAL
 CRIMINAL RECORDS EXCHANGE THE COURT SHALL CONDUCT A HEARING ON THE PETITION
 IF THE COURT FINDS THAT THE CONTINUED EXISTENCE AND POSSIBLE DISSEMINATION OF
 INFORMATION RELATING TO THE ARREST OF THE PETITIONER CAUSES OR MAY CAUSE IR-
 CONSIDERABLE INJUSTICE TO THE PETITIONER IT SHALL ENTER AN
 ORDER REQUIRING THE EXPUNGEMENT OF THE POLICE AND COURT RECORDS INCLUDING
 ELECTRONIC RECORDS RELATING TO THE CHARGE AND SHALL AS IN MEANS IF THERE IS A
 MANIFEST INJUSTICE THE COURT HAS TO ENTER AN ORDER OF EXPUNGEMENT. VA CODE
 18.2-268.3 REFUSAL OF TEST PENALTIES PROCEDURES STATES SECTION (A) IT SHALL BE UNLAW-
 FULL FOR A PERSON WHO IS ARRESTED FOR A VIOLATION OF 18.2-266 18.2-266.1 OR SUBSEC-
 TION 18.2-272 OR OF A SIMILAR ORDINANCE UNREASONABLY REFUSE TO HAVE SAMPLES OF HIS
 BLOOD OR BREATH OR BOTH BLOOD AND BREATH TAKEN FOR CHEMICAL TEST TO DETERMINE THE ALCOHOL
 OR DRUG CONTENT OF HIS BLOOD AS REQUIRED BY 18.2-268.2 AND ANY PERSON WHO SO UNREAS-
 ONABLY REFUSES IS GUILTY OF A VIOLATION OF THIS SECTION. SECTION (B) OF VIRGINIA CODE
 18.2-268.3 STATES WHEN A PERSON IS ARRESTED FOR A VIOLATION OF 18.2-51.4 18.2-266
 18.2-266.1 OR SUBSECTION (B) OF 18.2-272 OR OF A SIMILAR ORDINANCE AND SUCH PERSON REF-
 USES TO PERMIT BLOOD OR BREATH OR BOTH BLOOD AND BREATH SAMPLES TO BE TAKEN FOR
 TESTING AS REQUIRED BY 18.2-268.2 THE ARRESTING OFFICER SHALL ADVISE THE PERSON BY
 A FORM PROVIDED PROVIDED BY THE OFFICE OF THE EXECUTIVE SECRETARY OF THE SUPREME
 COURT OF VA THAT FORM MENTIONED IS CALLED THE CERTIFICATE OF THE DECLARATION OF REFUSAL
 TO PERMIT SAMPLES OF BLOOD OR BREATH. THAT A PERSON WHO OPERATES A MOTOR VEHICLE UPON A
 HIGHWAY IN THE COMMONWEALTH IS DEEMED THEREBY AS A CONDITION OF SUCH OPERATION TO
 HAVE CONSENTED TO HAVE SAMPLES OF HIS BLOOD AND BREATH TAKEN FOR CHEMICAL TEST TO
 DETERMINE THE ALCOHOL OR DRUG CONTENT OF HIS BLOOD A FINDING OF UNREASONABLE REFUSAL
 TO CONSENT MAY BE ADMITTED AS EVIDENCE AT A CRIMINAL TRIAL.
 SECTION (C) OF VA CODE 18.2-268.3 STATES THE ARRESTING OFFICER SHALL UNDER OATH BEFORE
 THE MAGISTRATE EXECUTE THE FORM AND CERTIFY THAT FORM BEING THE CERTIFICATE OF THE DECL-
 ARATION OF REFUSAL THAT THE DEFENDANT HAS REFUSED TO PERMIT BLOOD OR BREATH OR BOTH
 BLOOD AND BREATH SAMPLES TO BE TAKEN FOR TESTING THAT THE OFFICER HAS READ THE PORTION
 OF THE FORM DESCRIBED IN SUBSECTION (B) TO THE ARRESTED PERSON THAT THE ARRESTED
 PERSON AFTER HAVING HAD THE PORTION OF THE FORM DESCRIBED IN SUBSECTION (B) READ
 TO HIM HAS REFUSED TO PERMIT SUCH SAMPLE OR SAMPLES TO BE TAKEN.

STATEMENT OF THE CASE

ON THE 27TH DAY OF FEBRUARY 2018 PETITIONER APPEARED BEFORE THE PAGE COUNTY CIRCUIT COURT WITH A EXPUNGEMENT PETITION UNDER VA CODE 19.2-392.1 EXPUNGEMENT OF POLICE AND COURT RECORDS. REQUESTING THE POLICE AND COURT RECORDS FOR THE REFUSAL CHARGE THAT WAS RULED A NOBIE PROSECUTION ON NOVEMBER 2, 1995 BE EXPUNDED ON THE GROUNDS THAT A NOT GUILTY PLSA WAS MADE ON THE REFUSAL CHARGE A NOBIE PROSECUTION WAS ORDERED AND THERE WAS NO PLSA ABILGEMENT AND THERE WOULD BE NO REASON FOR ONE BECAUSE THE RECORD OF THE REFUSAL CHARGE IS WITHOUT MERIT NO D.U.I AFFIDAVIT SCORE SHEET SIGNED BY A MAGISTRATE AND THE REFUSAL CHARGE IS A IN-VALID REFUSAL CHARGE THAT CAN NOT BE USED TO OBTAIN A CONVICTION FOR D.U.I FOR THE FOLLOWING REASONS THE ARRESTING OFFICERS DID NOT AS REQUIRED BY SECTION (B) OF VA CODE 18.2-268.3 READ THE CERTIFICATE OF THE DECLARATION OF REFUSAL TO PETITIONER. AND THE ARRESTING OFFICERS DID NOT AS REQUIRED IN SECTION (C) OF VA CODE 18.2-268.3 CERTIFY SIGN THE CERTIFICATE OF THE DECLARATION OF REFUSAL. AND THAT IT IS THE LAW IN THE STATE OF VIRGINIA IF THE ARRESTING OFFICER DOES NOT CERTIFY SIGN THE CERTIFICATE OF THE DECLARATION OF REFUSAL THE COURT SHALL AND SHALL AS IN MEANING THE COURT HAS TO DISMISS THE REFUSAL CHARGE. AND THAT IT IS THE LAW IN THE STATE OF VIRGINIA IF THE CERTIFICATE OF THE DECLARATION OF REFUSAL IS NOT CERTIFIED SIGNED BY THE ARRESTING OFFICER THE EVIDENCE INSIDE THE RECORD OF THE REFUSAL CHARGE CANNOT BE USED TO OBTAIN A CONVICTION FOR D.U.I AND THE COURT SHALL DISMISS THE REFUSAL CHARGE AS WELL AND THE REFUSAL CHARGE THAT WAS RULED A NOBIE PROSECUTION ON NOVEMBER 2, 1995 IS WITHOUT MERIT NO D.U.I ~~AND~~ AFFIDAVIT SCORE SHEET SIGNED BY A MAGISTRATE AND THAT PETITIONER'S INNOCENCE OF D.U.I IS PROVEN BY PETITIONER'S COURT PROVEN INNOCENCE OF UNREASONABLY REFUSING TO PERMIT A SAMPLE OF BLOOD OR BREATH AND THE OUTCOME OF THE REFUSAL CHARGE IS SUPPOSE TO BE THE OUTCOME OF THE D.U.I CHARGE AND THAT IT IS A LEGAL IMPOSSIBILITY FOR PETITIONER TO BE CONVICTED OF D.U.I WHEN HIS INNOCENCE OF UNREASONABLY REFUSING TO PERMIT A SAMPLE OF BLOOD OR BREATH IS PROVEN AND THE ARRESTING OFFICERS DID NOT CERTIFY SIGN THE CERTIFICATE OF THE DECLARATION OF REFUSAL AND THAT REVIEW OF THE NOVEMBER 2, 1995 D.U.I CONVICTION CAN BE GRANTED BY THE EXPUNGEMENT OF THE POLICE AND COURT RECORDS OF THE REFUSAL CHARGE AND IF A ORDER OF EXPUNGEMENT WERE ISSUED TO EXPUNGE THE RECORDS OF THE REFUSAL CHARGE THAT WOULD AUTOMATICALLY EXPUNGE THE RECORDS OF THE D.U.I CONVICTION. AND ARGUED THAT THE CONTINUED EXISTENCE OF THE REFUSAL CHARGE IS CAUSING CIRCUMSTANCES WHICH CONSTITUTE A MANIFEST INJUSTICE AND THAT CIRCUMSTANCE IS THE NOVEMBER 2, 1995 D.U.I CONVICTION. THE PAGE COUNTY CIRCUIT COURT THEN DISMISSED THE EXPUNGEMENT PETITION ON THE GROUNDS THAT THE REFUSAL CHARGE DOES NOT REFLECT ON THE CRIMINAL HISTORY RECORD. A ~~AND~~ PETITION FOR APPEAL WAS FILED WITH THE VIRGINIA SUPREME COURT ARGUING THAT REGARDLESS RATHER OR NOT THE REFUSAL CHARGE EXISTED ON PETITIONER'S CRIMINAL HISTORY AND DRIVING RECORD OR NOT A ORDER OF EXPUNGEMENT CAN STILL BE ISSUED REQUIRING THE EXPUNGEMENT OF THE POLICE AND COURT RECORDS OF THE REFUSAL

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CONTINUED STATEMENT OF CASE

CHARGE UNDER SECTION (A) OF VIRGINIA CODE 19.2-392.2
EXPUNEMENT OF POLICE AND COURT RECORDS BECAUSE
THE REFUSAL CHARGE IS DEFINED IN TITLE 18.2 AND A
NOIE PROSECUTION WAS TAKEN ON THE CHARGE AND THAT
UNDER VIRGINIA CODE 19.2-392.2 IF THE POLICE AND
COURT RECORDS OF THE REFUSAL CHARGE WERE EXPUNED
THE POLICE AND COURT RECORDS FOR THE D.U.I.
CONVICTION FROM NOVEMBER 2, 1995 WOULD BE EXPUNED
AT THE SAME TIME BECAUSE THE POLICE AND COURT
RECORDS OF THE REFUSAL CHARGE THAT WAS RULED A
NOIE PROSECUTION ON NOVEMBER 2, 1995 AND THE POLICE
AND COURT RECORDS OF THE NOVEMBER 2, 1995 D.U.I.
CONVICTION ARE RELATED RECORDS AND THAT PETITIONER
COULD OBTAIN RELIEF OF THE NOVEMBER 2, 1995 D.U.I.
CONVICTION BY THE EXPUNEMENT OF THE POLICE AND
COURT RECORDS OF THE REFUSAL CHARGE THAT WAS
RULED A NOIE PROSECUTION ON NOVEMBER 2, 1995.

ON OCTOBER 16, 2018 ORAL ARGUMENT WAS MADE
BY TELEPHONE CONFERENCE BEFORE A PANEL OF THE
VIRGINIA SUPREME COURT AND PETITIONER ARGUED THAT
THE CIRCUIT COURT OF PAGE COUNTY DID ERR BY
DENYING THE EXPUNEMENT OF THE POLICE AND COURT
RECORDS FOR THE REFUSAL CHARGE THAT WAS RULED
A NOIE PROSECUTION THE PAGE COUNTY CIRCUIT COURT
RULING STATING THE REFUSAL CHARGE DOES NOT REFLECT
THE CRIMINAL HISTORY RECORD OR DRIVING RECORD
PETITIONER ARGUED THE CONTINUED EXISTENCE OF THE
POLICE AND COURT RECORDS OF THE REFUSAL CHARGE

CONTINUED STATEMENT OF CASE

NOT BEING EXPUNDED IS CAUSING CIRCUMSTANCES WHICH CONSTITUTE A MANIFEST INJUSTICE TO THE PETITIONER AND THAT CIRCUMSTANCE IS THE NOVEMBER 2, 1995 D.O.I. CONVICTION. AND THAT IF THE ~~RECORDS OF~~ ~~THE~~ POLICE AND COURT RECORDS OF THE REFUSAL CHARGE THAT WAS RULED A NONE PROSECUTION ON NOVEMBER 2, 1995. ~~THE RECORDS AT THE SAME TIME~~ WAS EXPUNDED THAT WOULD AT THE SAME TIME EXPUNGE THE POLICE AND COURT RECORDS FOR THE NOVEMBER 2, 1995 D.O.I. CONVICTION UNDER VA. CODE 19.2-392.2 EXPUNGEMENT OF POLICE AND COURT RECORDS BECAUSE THE RECORDS OF THE REFUSAL CHARGE AND D.O.I. CONVICTION FROM NOVEMBER 2, 1995 ARE RELATED RECORDS AND THAT PETITIONER COULD OBTAIN RELIEF OF THE NOVEMBER 2, 1995 D.O.I. CONVICTION BY THE EXPUNGEMENT OF THE POLICE AND COURT RECORDS FOR THE REFUSAL CHARGE THAT WAS RULED A NONE PROSECUTION ON NOVEMBER 2, 1995. AND ARGUED THAT THE NOVEMBER 2, 1995 D.O.I. CONVICTION WAS A SECOND OFFENSE D.O.I. CONVICTION. AND ARGUED THAT IF THE POLICE AND COURT RECORDS OF THE REFUSAL CHARGE AND D.O.I. ~~CON~~ CONVICTION FROM THE NOVEMBER 2, 1995 MATTER WERE EXPUNDED THAT WOULD EXPUNGE THE POLICE AND COURT RECORDS OF THE THIRD D.O.I. CONVICTION FROM JUNE 26, 2001 WHICH IS A FELONY. AND IT WOULD EXPUNGE THE JUNE 26, 2001 FELONY D.O.I. CONVICTION SHOWING ON THE ELECTRONIC CRIMINAL HISTORY RECORD SHOWING ON PAGE (22) OF PAGE COUNTY CIRCUIT COURT RECORD NUMBER ~~CL18-80~~ CL18-80

REASONS FOR GRANTING THE PETITION

THE PAGE COUNTY CIRCUIT COURT ERRORED ON FEBRUARY 27, 2018 BY DENYING THE EXPUNEMENT OF THE REFUSAL CHARGE THAT WAS ~~NOT~~ GRANTED A NOLLE PROSECUTION ON NOVEMBER 2, 1995 THE CONTINUED EXISTANCE OF THE POLICE AND COURT RECORDS OF THE REFUSAL CHARGE IS ~~THE~~ REFLECTING THE CRIMINAL HISTORY AND DRIVING RECORD BY CREATING CIRCUMSTANCES WITH A CONSTITUTE A MANIFEST INJUSTICE AND THAT CIRCUMSTANCE IS THE VOID WITHOUT MERIT INNOVABLE PROVEN NOVEMBER 2, 1995 D.U.I CONVICTION. IF THE POLICE AND COURT RECORDS OF THE REFUSAL CHARGE WERE EXPUNDED THAT WOULD AT THE SAME TIME EXPUNGE THE POLICE AND COURT RECORDS OF THE NOVEMBER 2, 1995 D.U.I CONVICTION BECAUSE THE RECORDS OF THE REFUSAL CHARGE AND D.U.I CHARGE AND D.U.I CONVICTION ARE RELATED RECORDS. AND IF THE RECORDS OF THE ~~NOVEMBER 2, 1995 MATTER~~ POLICE AND COURT RECORDS OF THE NOVEMBER 2, 1995 MATTER WERE EXPUNDED THAT WOULD EXPUNGE THE POLICE AND COURT RECORDS OF THE JUNE 26, 2001 FELLOW D.U.I CONVICTION AND EXPUNGE THE JUNE 26, 2001 FELLOW D.U.I CONVICTION SHOWING ON THE ELECTRONIC CRIMINAL HISTORY RECORD OF THE VIRGINIA STATE POLICE SHOWING ON PAGE 22 OF PAGE COUNTY CIRCUIT COURT RECORD NUMBER CL 18-80

THE VIRGINIA SUPREME COURT ERRORED ON NOVEMBER 28, 2018 BY REFUSING THE PETITION FOR APPEAL REGARDLESS WHETHER OR NOT THE REFUSAL CHARGE EXIST ON THE ELECTRONIC CRIMINAL HISTORY RECORD OF THE VIRGINIA STATE POLICE A ORDER OF EXPUNEMENT CAN STILL BE GRANTED TO EXPUNGE THE POLICE AND COURT RECORDS FOR THE REFUSAL CHARGE. BECAUSE OF THE NOVEMBER 2, 1995 D.U.I CONVICTION CAN BE OBTAINED BY THE EXPUNEMENT OF THE POLICE AND COURT RECORDS OF THE REFUSAL CHARGE BECAUSE THE RECORDS OF THE REFUSAL CHARGE AND D.U.I CHARGE TO THE 1995 MATTER ARE RELATED RECORDS. AND IF THE POLICE AND COURT RECORDS OF THE REFUSAL CHARGE AND D.U.I CONVICTION IN THE NOVEMBER 2, 1995 MATTER WERE EXPUNDED THAT WOULD EXPUNGE THE POLICE AND COURT RECORDS OF THE JUNE 26, 2001 FELLOW D.U.I CONVICTION AND EXPUNGE THE JUNE 26, 2001 FELLOW D.U.I CONVICTION FROM THE ELECTRONIC CRIMINAL HISTORY RECORD ~~OF~~ OF THE VIRGINIA STATE POLICE SHOWING ON PAGE 22 OF PAGE COUNTY CIRCUIT COURT RECORD NUMBER CL 18-80

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

WARREN SCOTT TAYLOR

Date: FEBRUARY 19, 2019