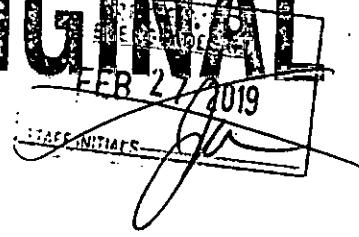
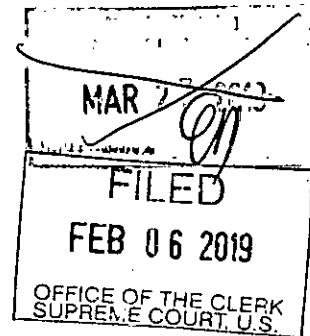


18-8702 ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

VERNON CARTER - PETITIONER
(Your Name)



VS.

SEC. JULIE JONES/STATE OF FLORIDA - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Florida Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

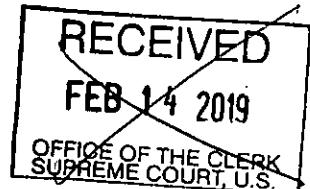
PETITION FOR WRIT OF CERTIORARI

Vernon Carter
(Your Name)

1599 SW 187th Avenue

Miami, Florida, 33194 - 2801

305-228-2000
(Phone Number) Warden



QUESTION(S) PRESENTED

Certiorari Review should be granted where the Florida Supreme Court affirmed the denial of Carter's Petition Case No. SC18-1972 Writ of Habeas Corpus by a person in State custody by the Florida Supreme Court where Carter raised sufficient allegations of ineffective assistance of counsel Court denial of his Motion to Suppress all evidence based on admitted illegal traffic stop. Violated his Fourth, Fifth, and Sixth Amendment rights.

Florida Supreme Court Opinion given on January 28, 2019
This Certiorari is Timely

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petition for Writ of Certiorari to the Florida Supreme Court.

The Petitioner Vernon Carter [hereinafter] "Carter" appearing pro se respectfully prays that a Writ of Certiorari issue to review the opinion of the Florida Supreme Court Case No. SC18-1972 on 2019.

OPINIONS BELOW

The Florida Supreme Court entered a non-published opinion affirming the Fourth District Court of Appeal denial of Carter Petition for Writ of Habeas Corpus by a person in State Custody. (Appendix A-C).

JURISDICTION

The opinion of the Florida Supreme Court affirming the District Court's denial of Carter Petition for Writ of Habeas Corpus by a person in State custody was entered on March 31, 2004 and on Case No: SC18-1972. The jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. § 1254 and Rules 10.1 rules of the Supreme Court. This Petition for Writ of Certiorari is filed pursuant to Rule 13.1 Rules of the Supreme Court.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution Amendment IV (1791). The Fourth Amendment to the Constitution provides, in relevant part 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 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.

United States Constitution Amendment V. The Fifth Amendment to the Constitution provides in relevant part that: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or Indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger. Nor shall any person be deprived of life, liberty, or property, without due process of law.

The Sixth Amendment to the Constitution, provides in relevant part that: In all criminal prosecutions, the accused shall enjoy the right to be informed of the nature and cause of the accusation to be confronted with the witness in his favor, and to have the assistance of counsel for his defense.

STATEMENT OF THE CASE

On October 16, 2002, the Defendant was convicted and sentenced to life in prison with Count One – kidnapping, 1st degree P.B.L.; Count Two – carjacking, 1st degree felony; Count Three – attempted strong armed robbery, 3rd degree felony sentenced to life plus 30 years plus 5 plus 5 years running concurrent.

Around 11:00 p.m. on March 14, 2002, ten days after the vehicle was reported stolen, 300 miles away in Ft. Lauderdale, Florida. The van is now in Jacksonville, Florida. That 300 miles away where was reported stolen.

A police officer was dispatched to investigate a call from an area resident experiencing concern over a suspicious van parked across the street from her apartment building in front of a closed doctor's office. The resident reported that the van had been parked for a considerable period of time with the engine running, the headlights off and with two occupants, one of whom was partially undressed and watching a television or computer screen.

Officer Bowen who did the admitted illegal traffic stop is not the first arriving officer on the scene. The first two police cars to arrive did the investigation and had completed the investigation spoke to the police caller and radio the dispatcher that all was clear. No crime was ever dispatched

to the scene and the investigation proved no crime was going to take place and no crime happened.

The investigation officers who arrived first never approached the vehicle because no crime was reported. The first officers to arrive drove right past the van vehicle and went to the police call house to find out why she (Ms. Lynn Moss who testified at the Petitioner's trial called them after speaking to police caller. The first two arriving investigating office radio the police to dispatcher informing them that the investigation is over and all is clear. This is on the face of the record from the only investigating officer. This is exculpatory evidence that shows that there was no inevitable discovery. The investigation was over when¹ Officer Bowen blocked the van in so who ever was in the van can not leave. Officer Bowen had complete knowledge that the first arriving officers had complete the investigation. Officer Bowen never even spoke to the police caller (Ms. Lynn Moss) why because Officer Bowen is not the investigating officer.

The Florida Supreme Court case – Moody was overturned because the stop was based on a "hunch." Officer Bowen testified to having patrolled the same area for the past two years and that the only cars that ever parked at that location after hours were four or five white Ford Taurus

¹ Officer Bowen took the Petitioner out of the back of the vehicle (passenger) place him in handcuffs, put the Petitioner in back seat of his police car with knowledge that no crime happened and the investigation was over.

used by employees during the day. Upon arriving at the scene the officer observed the van, pulled his patrol car behind the (suspicious) vehicle in a way that blocked it in and approached the van with a flashlight.

IT PUBLIC PARKING ANYBODY CAN PARK THERE

Officer Bowen testified when asked this questions is it public parking (yes). Do you patrol 7 days a week, 24 hours a day, 30 days a month on this same Street?(No) So how do you know that nobody else or just these white Ford Taurus are always parked in this public parking spot. (Officer Bowen you don't know that do you) (No further question).

Procedural posture and overview: The Court affirmed the denial of Defendant's Motion to Suppress on the alternative ground of the inevitable exception to the exclusionary rule, where the discovery of the crime was based on a license plate check.

The Court did not need to resolve whether the officer had a sufficiently founded suspicion to stop Defendant's van by blocking it, regardless the Court affirmed using the inevitable discovery exception to the exclusionary rule based on the license plate check.

This is a clear violation of the Petitioner's Fourth Amendment.

1. police call was no crime had happened
2. First two police officers on the scene drove past the Defendant's van.

Why? Because there was no suspicion and no crime was reported.

3. The arriving officers went to the police caller house to investigate why she called (Ms. Lynn Moss) who testified against the Petitioner called the police; the officer investigating informed (Ms. Moss) that there no crime in letting your car run. Radio the police dispatcher telling the investigation is over.
4. Several minutes later after hearing and reading the police radio dispatcher two messages.

a) No crime had been reported.

b) The investigation is over all is clear.

Officer Bowen then blocked the vehicle in took the Defendant out of back of the van (passenger) placed in handcuffs put the Defendant in the back of his police car (with this knowledge). The Defendant was three hundred miles away ten days ago when this van was taken, that why the police scan the area looking for the driver not the passenger.

²Technology expose Officer Bowen Fourth Amendment violation his admitted illegal traffic and here how it was exposed:

² Technology expose Officers Bowen (how?) because Officer Bowen ran the Petitioner I.D. card, before Officers Bowen ran license plate tag. Petitioner was already handcuff in the back of the police car when Officer Bowen got the LD. first.

Officer Bowen blocked the vehicle in with knowledge

A) No crime was dispatched to the scene (check the computer data bank) and the first two arriving officers computer investigation report (check the computer date bank) The investigation was over.

Key Fact

B) Officer Bowen had already blocked the Defendant vehicle in and took the Defendant out of the back of the vehicle placed the Defendant in handcuffs put the Defendant in the back of his police car.

C) Now technology is gone to expose Officer Bowen. The Defendant is handcuffed in the back of his patrol car. Officer Bowen ran a license plate check After he placed the Defendant in handcuffs in back of his police car and ran the Defendant (ID card) first.

1. With no knowledge of a crime taking place.
2. With knowledge the investigation was over from the first two investigating officers who never approached the vehicle the first two investigating officers demonstrated this in their actions by going to the 911 caller house, (Ms. Lynn Moss) who testified at the Petitioner's trial, but not to this.

The petitioner has demonstrated a fundamental miscarriage of justice that result from application of the bar abuse of discretion when the appeal's Court denied the petitioner relief on his direct appeal case citing written

opinion under the Florida Supreme Court case *Moody v. State*, 843 So. 2d 754 (Fla. 2003) and the Petitioner opinion *Carter v. State*, 868 So. 2d 1276 (Fla. 2004) The trial Judge Ilona M. Holmes before denying Motion to Suppress all evidence under the admitted illegal traffic stop using *Moody v. State*, as pending review in the Florida Supreme Court. So once *Moody v. State* was reversed for a new trial based on hunch, because the officers had no knowledge of *Moody* license status than *Carter v. State*, 868 So. 2d 1276 (2004) should have been reversed because the admitted illegal traffic stop was unconstitutional. Officer Bowen had knowledge that no crime had been committed and the investigation was over when Officer Bowen blocked the Petitioner in, took the Petitioner out of the back of the vehicle, placed the Petitioner in handcuffs, put the Petitioner in the back of the police car.³ Then Officer Bowen ran the license plate tag. This Honorable Court should grant this Certiorari. This was a clear violation of the Petitioner's Fourth Amendment right and not for constitutional error, plain error the Petitioner would not be serving a life sentence especially when the Petitioner was three hundred miles away when the crime happened. The Petitioner has demonstrated actual innocence. See *House v. Bell*, 547 U.S. 518, 538 (2006) (Holding actual innocence requires substantive review only in the

³ The Petitioner was already in handcuffs and in the back of the police car before Officer Bowen ran the license plate. Officer Bowen had no knowledge of the status of the Petitioner's license plate. Officer Bowen had knowledge that no crime had happened and knowledge the investigating officer had end the investigation.

extraordinary. The United States Supreme Court has reiterated the standard to be applied to claims of actual innocence. See *House v. Bell*, 547 U.S. 518, 126 S.Ct. 2064, 2077 (2006). The Petitioner has meet the gateway stage. The Petitioner has supported his actual innocence claim "with" 1) exculpatory evidence.⁴ 2) Trustworthy eyewitness (Mr. Dave Diane) accounts. Critical physical evidence that was not presented at trial. The Jacksonville Florida Police data bank that is still able today. First arriving police officers still work for police department. Their investigation report is still able. See *Jones v. United States*, 153 F. 3d 1305 (11th Cir. 1998) Holding that Appellant must establish that in light of all the evidence, it is more likely than not that no reasonable juror would have convicted him with this evidence.

Relief come in the Federal Court when it result in a decision that was contrary to or involved an unreasonable application of equally established Federal law as determined by the Supreme Court of the United States.

The petitioner admitted illegal traffic stop was and still is a clear violation of the United States Constitution's Fourth, Fifth, and Sixth Amendment right.

See *Williams*, 529 U.S. at 412. The Supreme Court of the United States explained the requirements in §2254 as follows:

⁴See Exhibit 12, 8. Mr. Dave Diane is available to testify today and Mr. Diane will say yes the victim is right I did work at the medical office where the crime happened and I saw the culprit commit the crime. I looked at the photo and did not see the person I saw commit the crime.

Under the "contrary to" clause, a Federal Habeas Court may grant the writ if the State Court arrived at a conclusion on a question of law or if the State Court decides a case differently than United States Supreme Court, on a set of materially indistinguishable facts.

Now this is the question facing this Honorable Court on the Petitioner, admitted illegal traffic stop. Opinion. The United States Supreme Court clarified that, if the State higher Court reached unreasonably law, the Federal Court may issue the writ if it finds that the State applied Supreme Court law unreasonably. This is what happened with the Petitioner, admitted illegal traffic stop the opinion is contrary to the United States Constitution's Fourth Amendment.

A) The denial of Carter petition under 3.850 for Writ of habeas Corpus by a person in State custody by the Fourth District Court of Appeal should not have been affirmed by the Florida Supreme Court where Carter raised sufficient allegations of ineffective assistance of counsel, which clearly violated Fourth Amendment right and Fifth, Sixth Amendment.

A claim of Fourth Amendment requires a showing that:

- 1) The action was deliberate.
- 2) The action was reckless.
- 3) The action was without probable cause.

REASONS FOR GRANTING THE PETITION

The Certiorari Review should be granted where the Florida Supreme Court affirmed the denial of Carter's Petition under for Writ of Habeas Corpus by a person in State custody by the Fourth District Court of Appeal where Carter raised sufficient allegations of ineffective assistance of counsel which violated his Fourth, Fifth, Sixth Amendment right.

In denying Carter's petition for Writ of Habeas Corpus by a person in State custody the Florida Supreme Court, Carter admitted⁵ illegal traffic stop – Motion to Suppress all evidence, was a constitutional violation of the Petitioner's Fourth Amendment right. To deny the Direct Appeal written opinion case citing under Florida Supreme Court; *Moody v. State*, 2003 along with United States Supreme Court application of standard law on illegal traffic stop.

The denial of Carter petition for Writ of Habeas Corpus by a person in State custody by the Fourth District Court of Appeal should not have been affirmed by the Florida Supreme Court where Carter raised sufficient allegations of ineffective assistance of counsel which violated his Fourth, Fifth and Sixth Amendment right.

⁵ Florida Supreme Court case citing: *Moody v. State*, 843 So. 2d 754 (Fla. 2003) The Petitioner case citing (using *Moody v. State* (2003)); *Carter v. State*, 868 So. 2d 1276 (2004) and Florida Supreme Court case number SC18-1972.

CONCLUSION

The Court should explicitly adopt Carter position based upon law and equity. The upholding of the denial of by the Supreme Court of Florida, Carter Petition for Writ of Habeas Corpus by a person in State custody seriously affects the fairness, integrity and public regulation of the judicial proceedings.

See generally *United States v. Rodriguez*, 398 F. 3d 1291 (11th Cir. 2005); *United State v. Olano*, 507 U.S. 723, 113 S. Ct. 1770 (1993). For all of these reasons and in the interest of justice the Petitioner Vernon Carter, prays that this Court will issue a Wit of Certiorari and reconsider the decision below. The petition for writ of certiorari should be granted.

Respectfully submitted,

Vernon Carter

Vernon Carter, pro se

DC# 166988

Everglades Correctional Institution

1599 SW 187th Ave.

Miami, Fl. 33194-2801

Date: Feb 5, 2019