

18-9174 ORIGINAL

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

Supreme Court of U.S.  
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IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
Warren Myles — PETITIONER

vs.

\_\_\_\_\_  
The State of Nebraska RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Nebraska Supreme Court

\_\_\_\_\_  
PETITION FOR WRIT OF CERTIORARI

United States Court of Appeals for the Eight Circuit  
314-244-2400  
Nebraska Attorney General  
402-471-2683

\_\_\_\_\_  
Warren Myles  
404-974-6184

Deuel County District Court  
308-874-3308  
Nebraska supreme court and court of appeals  
402-471-3731  
Mr. Joel B. Jay / Deuel county Attorney  
308-874-9934

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

The Supreme court of the United States

Warren Myles - PETITIONER

vs.

The State of Nebraska - RESPONDENT(S)

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

Petition for Writ of Certiorari

Warren Myles

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404-974-6184

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## Questions Presented

Does the State of Nebraska have the option to respect some but not other states concealed carry permits.

Does smelling of marijuana constitute probable cause for searches, when marijuana is legal in areas close to the arrest? A person could have legally engaged in marijuana and the smell may linger.

Can law enforcement welfare checks extend past the residence?

Is emergency urination a legitimate reason to park briefly on the interstate for relief?

Can an Officer use criminal history exposed while checking identification to further an investigation.

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**Opinions Below**

The opinion of the Nebraska Court of appeals appears in app. B. The opinion of motion to suppress the Deuel County District Court appears on app. C. The Nebraska Supreme Court denied further review on app. A.

**Jurisdiction**

The Nebraska Court of appeals delivered its opinion on November 27<sup>th</sup> 2018 app. B. The Nebraska Supreme Court denied petition for further review on February 7<sup>th</sup> 2019. This Court’s jurisdiction is invoked under 28 U.S.C. § 1254.

**Constitutional and Statutory Provisions Involved**

This case involves the Fourth amendment of the constitution prohibits “unreasonable searches and seizures.” U.S Const. amend. IV.

This case involves the Second amendment of the constitution prohibits “infringement of the right to keep and bear arms”. U.S Const. amend II

**Cases Cited**

State v. Myles.....

Neb. Rev. Stat 60-6,166(b).....

**Statement of the Case**

The facts of this case are in dispute. Myles indicated by non-verbal the thumbs up gesture that everything was fine and welfare check was unnecessary upon review of video evidence. After the gesture Myles started returning to the rental vehicle but was called to the officer. The officer asked why the vehicle was parked on the side of the road and Myles stated it was an emergency urination. The officer stated that was not a valid reason to stop the vehicle. Neb. Rev. Stat 60-6,166(b) The officer requested for Myles identification and was given identification before immediately ordering Myles to get into his squad car twice. Upon receiving Myles Identification the officer began the detention of Myles to investigate the circumstances presumably but without asking or determining who was driving the vehicle. App. F (Supp. 13:13-18). The order of Myles into the squad car led to the officer smelling marijuana on the person of Myles, which consequently followed by a search of Myles person. Myles indicated the possession of a firearm before the search was conducted and that a concealed carry permit was in his possession.

### **Reason for Granting the Writ**

The issuance of the improper parking violation was unjust and improper due to the fact that the officer did not know who was driving the vehicle, both occupants were legally allowed to drive the vehicle but only Myles was charged and convicted on the improper parking violation.

The Officer indicted that stopping for emergency urination is not a valid reason to stop on the side of the interstate and that is not consistent with the laws of Nebraska. Neb. Rev. Stat 60-6,166

The State of Nebraska has decided to not respect some other states concealed carry permits for various reasons but leads to uneven and discriminatory application of the law.

The fact that the officer never smelled marijuana from the vehicle combined by ordering of Myles into his vehicle made search incident to arrest narrowly focused on Myles person and with the validation of the co-defendants right to drive the vehicle and license , should have been allowed to proceed due to Myles arrest.

### **Conclusion**

The petition for a writ of certiorari should be granted.

Respectfully Submitted

A handwritten signature in black ink, appearing to be 'W. Myles', is written over a solid horizontal line.