No. 19-6319

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

ANTONIO M. BOGAN — PETITIONER
(Your Name)

vs.

JEFFREY GERMAN, ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE COURT OF APPEALS FOR THE SEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Antonio M. Bogan R29595
(Your Name)

10930 Lawrence Road
(Address)

Sumner, Illinois 62466
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Due to a .40 caliber shell casing being recovered from the scene of a reported home invasion Petitioner was arrested for, Respondents wanted to search Petitioner's Cutlass for the suspected weapon. But since Respondents did not possess facts to reasonably warrant them to believe the car contained evidence of a crime or that it had been used in the commission of a crime, they warrantlessly seized it (prevented its removal from a parking lot) based solely on Petitioner's arrest and his ownership of the vehicle. Subsequently, Respondents had a drug-detection dog sniff the car and, after the dog's alleged positive alert, Respondents performed a warrant-based search of the vehicle. In denying the reversal of summary judgment from Respondents' favor to Petitioner's favor, the United States Court of Appeals for the Seventh Circuit validated the warrantless seizure and events thereafter by equating probable cause to Respondents' knowledge of Petitioner's arrest and his ownership of the car. Although Petitioner cited Supreme Court, Seventh Circuit and other Circuits' precedents concluding that Respondents' actions violated the Fourth Amendment, the Court of Appeals disregarded them by neglecting to distinguish them or give reasoning as to why they were not being followed. Accordingly, the questions presented are :

I. Whether probable cause to effect a warrantless seizure of a vehicle is equivalent to officers' knowledge of an arrestee being its owner ?

II. Whether a dog sniff- and warrant-based search resulting from its positive alert- can be performed on a vehicle warrantlessly seized on nothing more than officers' knowledge of an arrestee being its owner?

III. Whether a full, fair and impartial hearing is afforded when precedent (under the doctrine of stare decisis) requiring warrantless seizures of vehicles to be based on a reasonable belief that the vehicle contains contraband or evidence of crime or that it is an instrument or evidence of crime is deviated from absent compelling reasons or a change in law?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] 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:

Plaintiff: Antonio M. Bogan

Defendants: Jeffrey German, John Byrne, Peter Van Gessel, Larry Collins, Christopher Delaney, Ofc. Robertson, Det. Brown, Frank E. Wascher Jr., and Ofc. Bussey

Bogan v. German, et al., No. 18-2927, United States Court of Appeals for the Seventh Circuit. Judgment entered May 17, 2019. (Appex. A).

Bogan v. German, et al., No. 14-C-7849, United States District Court for the Northern District of Illinois. Judgment entered September 29, 2017. (Appx. B).

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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

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[X] reported at 774 Fed. Appx. 297; 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

[X] reported at 2017 U.S. Dist. LEXIS 160612; 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 _____ 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 _____ 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.

JURISDICTION

On May 17, 2019, the United States Court of Appeals for the Seventh Circuit decided Petitioner's appeal. (Appx. A). Due to receiving the Court's mandate without ever receiving its order, Petitioner moved the Court to recall its mandate to accord him an opportunity to petition for rehearing. (Appx. C). The Court granted Petitioner's motion on July 12, 2019. (Appx. D). On July 18, 2019, Petitioner submitted his petition for rehearing and/or rehearing en banc, which the Court denied on August 5, 2019. (Appx. E). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment IV, United States Constitution

The right of the people to be secure in their person, 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.

42 U.S.C. § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, Subjects, or Causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or ommission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

STATEMENT OF THE CASE

Petitioner's Arrest and the Warrantless Seizure, Dog-Sniff and Warrant-Based Search of His Car

On July 27, 2013, Petitioner resided in Joliet, Illinois. At approximately 1:42 pm, as Petitioner was exiting his apartment building, he was arrested by officers of the Joliet Police Department ("JPD") for allegedly committing a home invasion and shooting a little less than twelve hours prior.

At the time of Petitioner's arrest he owned an Oldsmobile Cutlass, which was parked in the parking lot of his apartment complex upon officers' arrival. At not time prior to Petitioner's arrest did officers observe him entering, exiting, an occupant of or in close proximity to the car; neither did they possess information of the vehicle having been involved in any criminal activity.

When Petitioner was taken into custody, he had several friends present. One friend in particular - Justin Van Tichelt - was at the scene to borrow Petitioner's Cutlass, as he had been previously authorized by Petitioner to do so. Immediately upon being handcuffed, Petitioner told Justin to take the car and keep it until arrangements could be made for Petitioner's family to retrieve it. As Petitioner was being escorted to the back of a police car, he observed Justin approach the car - which was surrounded by Respondents Robertson, Byrne and other officers - only to be denied access to it. While sitting in the police car, Petitioner observed Justin and the officers talking. Petitioner used his cell phone to call Justin to inquire as to why he was not departing with the car, Justin told Peti-

tioner - and Petitioner heard officers say - he could not take the car unless he first consented to it being searched. Petitioner told Justin not to allow officers to search his car. Because Justin refused to consent to a search, Respondents Robertson, Byrne and other officers prevented the car's removal from the parking lot.

On the day of Petitioner's arrest he was serving a term of mandatory supervised release ("MSR"), a variant of parole, arising from a state conviction. When Respondents Robertson, Byrne and the other officers refused to allow Justin to take the car, they were unaware of Petitioner's MSR status; the only officer who was - Respondent German - was not present, and did not arrive until approximately 15-18 minutes after the car was prevented from being removed from the parking lot.

After Respondent German's arrival and search of Petitioner's apartment, he came to the car where Petitioner was detained and confiscated Petitioner's cell phone. Respondent, then, tried eliciting Petitioner's consent to search the Cutlass but Petitioner refused to allow him to do so. At one point, Petitioner told Respondent that the car did not belong to him; that he sold it to Micah Smith ("Mike" Smith according to Respondent). Having failed to get Petitioner's consent to search the car, Respondent directed Respondent Byrne to keep the car secured (deny access to everyone except police personnel) while he sought a search warrant.

A little more than three hours after the car was not allowed to be removed from the parking lot, a search warrant was not acquired; instead, Respondent German directed Respondent Van Gessel to have his drug-detection dog sniff the car for the presence of drugs. Based on an alleged positive alert by the dog, a search warrant for drugs and drug paraphenalia, only, was issued although Respondents wanted to

search the car for a .40 caliber handgun suspected of being discharged in the reported home invasion. Upon Respondents German, Delaney, Collins, Brown, Van Gessel, Robertson, Byrne and other officers searching the car, no drugs were found; however, three firearms were - one being a .40 caliber handgun.

District Court Proceedings

Under 42 U.S.C. § 1983, Petitioner filed a lawsuit against Respondents and other JPD officers in the United States District Court for the Northern District of Illinois. The Court had jurisdiction pursuant to 28 U.S.C. § 1331 and 1334 (a)(3) and (4). After claims against several Defendents were dismissed - one involuntarily and others voluntarily - Petitioner and Respondents, pursuant to Federal Rule of Civil Procedure 56, cross-moved for summary judgment on the search of Petitioner's apartment (Count I)[1] and the detention and search of his vehicle (Count II).

On Count II, the Court resolved the issue of whether Respondents warrantlessly seized Petitioner's car in Petitioner's favor. (Appx. B at pg. 5-6). The Court went on to surmise that probable cause supported the seizure where "it is undisputed (1) that the JPD circulated an intelligence bulletin indicating that probable cause supported Bogan's arrest for the reported home invasion that occurred approximately twelve hours earlier and (2) that the officers knew that Bogan was the registered owner of the Cutlass, which was parked outside his apartment building." *Id.* at pg. 13. In the Court's opinion, the seizure was reasonable al-

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1. This Count is irrelevant to this petition because certiorari is not being sought on it since Petitioner concedes to the judgments of the lower Courts.

though "no officer saw Bogan in the Cutlass or knew if he had used it in connection with the home invasion." *Id.* The Court attempted to add support to its determination of probable cause existing by stating "Bogan was arrested near the Cutlass" (*id.*), but this statement conflicts with the evidence presented and the Court's previous observation of Petitioner being "arrested on the lawn outside his apartment building." *Id.* at pg. 2.

After validating the warrantless seizure of Petitioner's car, the Court concluded that the Respondents' use of the drug-detection dog on the vehicle- and warrant-based search resulting from the dog's positive alert- were likewise reasonable under the Fourth Amendment. *Id.* at pg. 14-17. Accordingly, summary judgment was denied in favor of Petitioner and granted in favor of Respondents. *Id.* at pg. 17, 19.

Court of Appeals Proceedings

After the District Court ruled against Petitioner and in favor of Respondents, Petitioner appealed to the United States Court of Appeals for the Seventh Circuit. The Court's jurisdiction was pursuant to 28 U.S.C. § 1291.

Pursuant to Federal Rule of Appellate Procedure 28(a)(8)(A), Petitioner cited in his appellate briefs Supreme Court, Seventh Circuit and other Circuits' precedents establishing that probable cause - rather than an arrestee's ownership - is required to effect a warrantless seizure of a vehicle. Through a "nonprecedential" order, the Court disregarded the authorities cited and affirmed the District Court's judgment. (Appx. A at pg. 7). In so doing, the Court surmised that summary judgment was not warranted in Petitioner's favor because "a reasonable jury

could not conclude... that the officers lacked probable cause to believe that there were weapons or drugs in the Cutlass" based on Respondents' knowledge of Petitioner's ownership of the car and his arrest[2] for the reported home invasion. *Id.* at pg. 5. Relying on its determination of the car's seizure being reasonable, the Court went on to validate the subsequent dog sniff and warrant-based search of the vehicle. *Id.* at pg. 5-6.

Feeling as though he was deliberately denied a full, fair and impartial hearing due to his status as a pro se litigant, Petitioner petitioned the Court for rehearing and/or rehearing en banc. Specifically, Petitioner contended that under the doctrine of stare decisis, the Court was required to give considerable weight to the analogous authorities cited in his briefs, but since the Court's order is devoid of analyses to determine how much weight, if any, it gave the authorities, he was deprived of a full, fair and impartial hearing. Without addressing Petitioner's contention, the Court denied the petition. (Appx. E).

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2. The Court states that the arrest occurred "near the parked car," but this has previously been shown to be in conflict with the evidence presented. supra at pg. 7, para. 1.

REASONS FOR GRANTING THE PETITION

It has long been held that "[i]t is the duty of courts to be watchful for the constitutional rights of the citizens, and against any stealthy encroachments thereon." Boyd v. United States, 116 U.S. 616, 635 (1886). This case questions whether this adage was fulfilled by the lower courts in a 42 U.S.C.S 1983 lawsuit denying summary judgment in favor of Petitioner and granting it in favor of the Respondents on a Fourth Amendment claim. Petitioner respectfully asks certiorari to be granted to determine if the Court of Appeals was warranted in affirming the District Court's judgment where (1) Respondents, based solely on Petitioner's arrest for a reported home invasion and his ownership of a car, prevented the vehicle's removal from a parking lot; (2) Respondents had a drug-detection dog sniff the car and, based on the dog's alleged positive alert, performed a warrant-based search of the vehicle; and (3) the Court disregarded precedents concluding that Respondents' actions violates the Fourth Amendment.

I. Does Probable Cause To Effect A Warrantless Seizure Of A Car Equate To Officers' Knowledge Of The Owner Being A Suspect In A Crime?

According to this Court's precedents, the Fourth Amendment prohibits warrantless seizures of vehicles in the absence of probable cause – i.e., when the known facts and circumstances are insufficient to warrant a man of reasonable prudence to believe (1) contraband or evidence of crime is in the vehicle (Chambers v. Maroney, 399 U.S. 42, 47 (1970)) or (2) the vehicle itself is an instrument or evidence of crime (Cardwell

v. Lewis, 417 U.S. 583, 592 (1974)).

To the best of Petitioner's knowledge, this Court has never addressed a vehicle seizure based solely on an arrestee's ownership. The validity of such a seizure, however, was addressed in United States v. Cooper, 949 F.2d 737 (5th Cir. 1991). There, as a caution, the Court emphasized that "absent probable cause to believe the car contains contraband or evidence of crime, a warrantless seizure must be based on probable cause to believe the car itself is an instrument or evidence of crime, not merely that the car's owner committed a crime." *Id.* at 748. This caution seems entirely consistent with this Court's requirements in Chambers and Cardwell.

Therefore, did the Court of Appeals oppose the caution in Cooper - thus blatantly disregarded Chambers and Cardwell - when it condoned Respondents' refusal to allow Petitioner's car to be removed from the parking lot based on nothing more than Petitioner being a suspect in a crime and his ownership of the vehicle? (Appx. A at pg. 5). It seems quite reasonable to believe so. How could Respondents' actions be supported by probable cause - a reasonable belief that (1) the car contained contraband or evidence of crime or (2) the car itself was an instrument or evidence of crime - when "no officer saw [Petitioner] in the Cutlass or knew if he had used it in connection with the home invasion" he was arrested for? (Appx. B at pg. 13). Not only does the Court of Appeals' decision nullifies Cooper, Chambers and Cardwell, but it also conflicts with its own precedents.

First, there's Scott v. Glumac, 3 F.3d 163 (7th Cir. 1993). In that 42 U.S.C.S 1983 lawsuit, officers had an arrest warrant for the Plaintiff. *Id.* at 164. The officers drove to the Plaintiff's residence and observed him exit his car, leaving it occupied by a male passenger. *Id.* Approxi-

mately 20-25 minutes after the Plaintiff went into his apartment building, the officers went and knocked on his door. Id. Upon the Plaintiff answering his door, he was arrested, searched and found to be in possession of a small bag of cocaine. Id. The Defendant officer went back to the parking lot and searched the Plaintiffs car, finding no contraband but ordering it towed regardless. Id. The District Court granted summary judgment in favor of the Defendant based on qualified immunity. Id. In reversing, the Court of Appeals held that the warrantless seizure of the Plaintiffs car was unreasonable under the Fourth Amendment because the Defendant lacked probable cause to believe cocaine was in the vehicle or that the vehicle had been used in connection with the Plaintiffs cocaine possession while in his apartment. Id. at 166-67. The Court went on to conclude that, based on the obvious lack of probable cause, affirming summary judgment in the Defendant's favor "would be immunizing the seizure of a car based simply on ownership by an arrestee." Id. at 167.

Scott is analogous to Petitioner's case in that neither vehicles involved could be reasonably linked to the offenses their owners were arrested for. This was clearly before the Court of Appeals where the District Court acquiensced that no officer saw Petitioner in the car - thus negating a belief that he had placed evidence therein - or knew if he had used it in connection with the home invasion. (Appx. B at pg. 13). Nonetheless, like the Defendant in Scott, Respondents took possession of Petitioner's car based solely on his arrest and his ownership of the vehicle, which Scott concludes violates the Fourth Amendment. The only difference between Scott's suit and Petitioner's suit is that Scott was represented by a licensed attorney and Petitioner proceeded pro se.

Next there's United States v. Duguay, 93 F.3d 346 (7th Cir. 1996). In a criminal case, the Defendant - a passenger in his own car driven by his girlfriend - was arrested for assaulting a police officer upon the vehicle being parked. *Id.* at 349. After the Defendant was handcuffed he told his girlfriend not to give the car keys to officers, but because the car was being impounded, an officer demanded the keys. *Id.* When the girlfriend refused to surrender the keys she was arrested and the keys were removed from her pocket. *Id.* During an inventory search of the car, officers discovered cocaine in the trunk. *Id.* Before being convicted of distribution of cocaine, the Defendant moved to suppress the drugs but was denied. *Id.* In reversing the denial of the Defendant's motion, the Court of Appeals found that the police did not articulate a constitutionally legitimate rationale for impounding and inventory searching the the Defendant's car. *Id.* at 352. The Court rejected officers' attempt to justify their action with their role as "caretaker" of the streets by holding that "impoundment based solely on an arrestee's status as a driver, owner, or passenger is irrational and inconsistent with 'caretaking' functions." *Id.* at 353. Observing the Defendant's girlfriend and brother being present and available to take possession of the car, the Court emphasized its holding by concluding that in the absence of reasonable suspicion[3] to justify an investigative detention of a vehicle or probable cause to seize it, denying possession to a passenger, a girlfriend or a family member serves no purpose, making such actions unreasonable under the Fourth Amendment. *Id.*

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3. Respondents' sole argument was that probable cause supported the seizure, thus waiving this defense by failing to raise it in the District Court. In any event, they did not articulate facts to support such a defense.

When Respondents refused to allow Petitioner's friend to attain possession of the car, they, in essence, impounded the vehicle like the officers did in Duguay. And like the officers in Duguay, Respondents impounded the car on nothing more than Petitioner's - an arrestee's - ownership. If this was unauthorized in Duguay, why was it not in Petitioner's case when the only difference between the two is one being argued by a licensed attorney (Duguay's) while the other was litigated pro se (Petitioner's).

Indeed, Scott and Duguay clearly expresses that probable cause to effective a warrantless seizure of a vehicle is not equivalent to an arrestee's status as owner. These authorities are consistent with the Fifth Circuit's caution in Cooper, which case is in line with this Court's precedents (Chambers and Cardwell). Thus, the question posed is: are these authorities abrogated due to an arrestee's ownership of a vehicle now being equivalent to a reasonable belief that the vehicle contains evidence of a crime or that it was used in connection with a crime? This question is of significant importance because if the answer is no, the Court of Appeals' order - despite being "nonprecedential" - answering yes will adversely affect citizens' Fourth Amendment rights in both civil and criminal cases. This is because with countless officers patrolling the streets daily, they will be allowed to take possession of citizens' vehicle whenever they choose without fearing being held accountable by the courts. Just imagine the constitutional epidemic that will be fostered when courts refuse to redress vehicles seized by officers when its owner is arrested for an offense unrelated to the vehicle in one location and the vehicle is seized at another location or when a licensed passenger is denied possession of the vehicle when the owner, after being traffic-stopped, is arrested on an offense unrelated to the vehicle.

To prevent constitutional mayhem in the form of future officers engaging in acts similar to Respondents', Certiorari should be granted to explicitly condemn warrantless seizures based solely on an arrestee's ownership.

II. Can A Dog Sniff - And A Warrant-Based Search Resulting From Its Alleged Positive Alert - Be Performed On A Vehicle Warrantlessly Seized Based On Its Owner Being A Suspect In A Crime?

Having pointed this Court to authorities creating a reasonable belief that Respondents' warrantless seizure of Petitioner's car was unreasonable under the Fourth Amendment, it seems logical to think that the answer to the above question is no. This is because in Illinois v. Caballes, 543 U.S. 405, 408 (2005) this Court commented that a dog sniff conducted during an unlawful detention violates the Fourth Amendment. Then, ten years later, the Court's comment found application in Rodriguez v. United States, 135 S. Ct. 1609 (2015) when the Court deemed a dog sniff after the completion of a traffic stop illegal.

In this case, it is undisputed that a .40 caliber shell casing was found at the scene of the reported home invasion Petitioner was arrested for, thus causing Respondents' desire to search Petitioner's car for the suspected weapon. But due to there being no probable cause to believe the car contained a gun or that it had been used in the commission of the alleged home invasion, Respondents lacked legal justification to commence a search of the vehicle. Therefore, is it not plausible that Respondents, after unlawfully preventing the car's removal from the parking lot, used the drug-detection dog solely as a means to create probable cause to support a search of the vehicle? After surmising Respondents' warrantless seizure a lawful act, the Court of

Appeals ignored this reasonable inference and rendered the use of the dog a lawful act also. (Appx. A at pg. 5-6). Does not the Court's order conflict with this Court's comment in Caballes and decision in Rodriguez?

Moreover, does not the Court of Appeals' order conflict with United States v. Hogan, 25 F.3d 690 (8th Cir. 1994)? There, the Defendant was convicted of possession with intent to distribute marijuana and methamphetamine after the District Court denied his motion to suppress the drugs. *Id.* at 691. On appeal, the record revealed that after a confidential informant told DEA agents that the Defendant was selling drugs at their workplace and would bring some the next day at 3 pm in a white truck, agents obtained a search warrant for the Defendant's truck and home. *Id.* The following day, when agents observed the Defendant leave his residence at 12:40 pm in a blue Cutlass, they had a State trooper pull him over. *Id.* at 692. After the Defendant refused to consent to a search of his car, an agent impounded it so a search warrant could be acquired. *Id.* Instead of forthwith applying for a search warrant, the seizing agent had a drug-detection dog sniff the car, which provided probable cause to obtain a search warrant. *Id.* Upon searching the car, agents discovered drugs in the trunk. *Id.* In reversing the denial of the Defendant's motion to Suppress, the Court of Appeals held that the agents lacked probable cause to impound the Defendant's car because the facts they possessed suggested that drugs would be in the Defendant's white truck, not his blue car. *Id.* In conclusion, the Court explicitly held that "[t]he unlawful seizure allowed the agents to place the car in a position where the narcotics-detection canine could sniff it" to provide probable cause to support a search, thus rendering the sniff and warrant-based search violations of the Fourth Amendment. *Id.* at 693-94.

Because there were zero facts to warrant a search of Petitioner's car - and Petitioner refused to consent to its search - Respondents, like the agents in Hogan, unlawfully caused the vehicle to be placed in a position for the drug-detection dog to sniff it and provide the probable cause to support its search. It is plausible that actions such as Respondents' was one of the underlying concerns of Honorable Justice Ginsburg. see Caballes, 543 U.S. at 422 (dissenting with comment on the danger of allowing police to use drug-detection dogs to search for contraband despite the absence of cause to suspect its presence). With that in mind, is it not rather reasonable to believe that Respondents, wanting to search the car for the .40 caliber suspected of being discharged in the alleged home invasion but lacking legal justification to do so, used the dog as a pretext to acquire a "general, exploratory" search warrant to rummage through the car for the weapon under the guise of searching for drugs and drug paraphenalia? In other words, did Respondents purposely circumvent the Fourth Amendment's warrant requirement of "particularly describing the things to be seized"? This seems more likely than not based on the fact that it is illogical for the search warrant (Appx. F) to be devoid of a .40 caliber handgun to be seized if Respondents, indeed, possessed probable cause to search the car for such a weapon absent the dog sniff.

The comment in Caballes and holdings in Rodriguez and Hogan implies that Respondents were not legally authorized to perform a dog sniff on Petitioner's vehicle due to the car being unlawfully detained. Thus, the Court of Appeals' refusal to reverse Summary from Respondents' favor to Petitioner's favor was a blatant disregard for these authorities. The Court's action clears the way

for officers to "stealthily encroach" upon citizens' Fourth Amendment rights, especially if the Courts turn a blind eye and condone their action through "nonprecedential" orders. No doubt, constitutional mayhem will be fostered if officers are allowed to circumvent the warrant requirement as Respondents seemingly did. Just imagine no citizen having a privacy interest in their personal property when officers gets free passes to use drug-detection dogs as pretexts to acquire probable cause to search the property that is nonexistent without the dog. Indeed officers, whenever they fancy, will rummage through citizens' property for anything incriminating under the guise of searching for drugs. This is a clear and present danger to Fourth Amendment rights, and unless certiorari is granted to explicitly condemn such actions, it's only a matter of time before other citizens suffer the same injustice Petitioner did.

III. Does A Litigant Receive A Full, Fair And Impartial Hearing When The Courts Disregard The Authorities Governing The Issues Before It?

Does not the doctrine of stare decisis import authority to a decision, depending on the court that rendered it, merely by virtue of the authority of the rendering court and independently of the quality of its reasoning? According to United States v. Reyes-Hernandez, 624 F.3d 405, 412 (7th Cir. 2010), it does. In fact, the essence of stare decisis is supposed to be that the mere existence of certain decisions becomes a reason for adhering to their holdings in subsequent cases. *Id.* In other words, "[T]he bare fact that a case has been decided is a ground for deciding the next case, if materially

identical, in the same way." Midlock v. Apple Vacations, Inc., 406 F.3d 453, 457 (7th Cir. 2005).

Complying with Federal Rule of Appellate Procedure 28(a)(8)(A), Petitioner presented the Court of Appeals with the authorities of Scott and Duguay - two cases materially identical to his - as support for his contention of Respondents unlawfully seizing his car when they prevented its removal from the parking lot. Under the doctrine of stare decisis, the Court was required to "give considerable weight to [these authorities] unless and until they have been overruled or undermined by the decisions of a higher Court." Reyes-Hernandez, 624 F.3d at 412. Nonetheless, when it came to Petitioner's case, it seem as though the Court arbitrarily deviated from its own precedents. First, it is unclear how much weight, if any, the Court gave to its decisions in Scott and Duguay since its order is devoid of analyses to distinguish them or explain why they were not being followed. (Appx. A). Second, having an opportunity to reconsider its unexplained departure from Circuit precedent, the Court denied rehearing and/or rehearing en banc. (Appx. E). The question formed from the Court's action is: what is the purpose of citing to analogous case-law pursuant to Appellate Rule 28(a)(8)(A) if the authorities are simply ignored by the Courts?

Pursuant to Seventh Circuit precedent, a litigant is deprived of a full, fair and impartial hearing when Courts make up their minds not to enforce the guarantees of the Fourth Amendment by failing to apply applicable law. Hampton v. Wyant, 296 F.3d 560, 563-64

(2002). Based on the fact that the Court of Appeals disregarded authorities concluding (1) that Petitioner's arrest and his ownership of the Cutlass, alone, did not support Respondents' warrantless seizure of the vehicle and (2) that a dog sniff- and warrant-based search resulting from its alleged positive alert- cannot be performed on an unlawfully seized vehicle, its only reasonable to think that the Court deliberately denied Petitioner the relief he was entitled to - the reversal of summary judgment from Respondents' favor to his - for no other reasons than his status as a pro se litigant and because it could.

The treatment of Petitioner's case, it seems, directly opposes the Court's duty to be watchful for his Fourth Amendment rights and against any stealthy encroachments thereon. Supra at pg. 9, para. 1. Petitioner believes this constitutes a miscarriage of justice where (a) the Respondents clearly trampled upon Petitioner's Fourth Amendment rights and (b) the Court rendered § 1983 - an action designed to redress constitutional violations by individuals acting under color of state law - a useless statute. If the Court's action is allowed to prevail, how long before pro se litigant in other civil actions (e.g., habeas corpus, tort claims, etc.) gets denied relief at the Court's discretion, not pursuant to careful and plenary review on the merits? Therefore, to prevent sure to come violations of citizens' rights to due process and equal protection of the laws, Certiorari should be granted to explicitly condemn the Court of Appeals' disregard for precedent governing the issues before it, and reaffirm that every litigant - pro se or otherwise - is entitled to full, fair and impartial hearings before the Courts.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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Date: October 8, 2019