

No. **19-8418**

IN THE
SUPREME COURT OF THE UNITED STATES

RUPERT STAMPS

(Your Name)

— PETITIONER

vs.

PARIS CAPALUPO

— RESPONDENT(S)

ORIGINAL

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

DEC 03 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

UNITED STATES Court of Appeals For the 4th
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) CIRCUIT

PETITION FOR WRIT OF CERTIORARI

RUPERT STAMPS #443-308

(Your Name)

Roxbury Correctional Institution

(Address)

18701 Roxbury Road

(City, State, Zip Code)

Hagerstown, MD 21746

(Phone Number)

RECEIVED

DEC 11 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

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 2 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☒ is unpublished.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 1 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☒ is unpublished.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 _____ 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☐ is unpublished.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☐ is unpublished.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

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 16, 2019.

☒ 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 _____.
A copy of that decision appears at Appendix _____.

☐ 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).

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Hash v. Close, 968 F. Supp. 2d 825 (2013) 3, 9
Heck v. Humphrey, 512 U.S. 477 (1994) 3, 9
Riley v. California, 134 S.Ct. 2473 (2014) .. 7

STATUTES AND RULES

28 U.S.C. § 1254(1) - 2

OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4th Amendment to the U.S. Constitution
Which governs all searches and seizures that
are conducted by government agents — 5, 6, 8

3. (b)

QUESTION(S) PRESENTED

I. Did the Lower Court err or abuse ITS discretion when ruling that Officer Rollins did not violate Appellant's Rights under the Fourth Amendment to the U.S. Constitution, by providing knowingly false, untruthful and inadequate information in an affidavit supporting Stamps' extradition from Washington D.C. to Maryland?

II. Did the Appeals court err or abuse ITS discretion when ruling that Detective CAPALUPO did not violate Appellant's Fourth Amendment rights by providing to Rollins the untruthful information that appeared in the affidavit, AND by searching Stamps' Cell phone without a warrant?

III DID THE Lower courts ERR, OR ABUSE ITS discretion By failing to APPLY Stare' Decisis, Since Heck v Humphrey was overruled by Hash v Close?

STATEMENT OF THE CASE

ON March 27, 2017, Plaintiff Rupert Stamps Filed a complaint against Detective Paris Capalupo, of the Montgomery County Police Department, alleging violations of his civil rights pursuant to 42 U.S.C. § 1983, stemming from his arrest of November 18, 2014. Plaintiff SEeks \$500,000. in damages based on his Fourth Amendment Claims that he was arrested without physical evidence to support Probable cause. Stamps also claimed Defendant Capalupo unlawfully searched his cell phone without a Search Warrant. On March 15, 2018, the U.S. District Court denied the motion to dismiss without Prejudice, Finding the court was not provided transcript of Stamps' Criminal trial, it was unclear if the Legality of Capalupo's Search was Litigated. Capalupo did not provide enough information For the court to determine whether cell phone data, obtained from the Cell phone search, was introduced at Stamps' criminal trial and was necessary to his conviction. Finally, within the Memorandum, the U.S. District Court  Failed to conclude that the Claims were barred by Heck v. Humphrey, U.S. 477 (1994).

REASONS FOR GRANTING THE PETITION

1. With respect to the search of Mr. STAMPS' phone before a valid Search Warrant was obtained, the court could glean from the inept, and uncultivated evidence, or it could wonder why Post-conviction Counsel failed to adequately examine Police on how certain evidence was uncovered that only could be obtained so quickly - through the phone. The remand to Post-conviction proceedings is the most adequate relief;
- 2.) The record exemplifies the shortcomings in the affidavit supporting extradition of Mr. STAMPS from Washington D.C. to Maryland. The shortcomings exacerbate the gross negligence of police for intelligently, knowingly and intentionally submitting knowingly false information to secure extradition - when 168 video camera footage clearly establishes Mr. STAMPS' alibi. Police corruption is just that.
- 3.) The overruling of Huck v Humphrey by Hash v Close is the only issue.

ARGUMENT # 1:

STAMPS PHONE WAS SEARCHED BEFORE A
VALID SEARCH WARRANT WAS OBTAINED ;

Judge Sharon V. BURRELL, OF THE CIRCUIT COURT FOR
MONTGOMERY COUNTY ISSUED A warrant to search
MR. STAMPS cell phone December 04, 2014. THE phone
was searched prior to issuance of the Search warrant.
ON Nov 18, 2014, between the 18th and 21st of NOVEMBER,
Capalupo retrieved phone numbers of Michael Robb and Hazel
Narce, (stamps' co-defendants) - from Mr. STAMPS' phone,
along with pictures of both co-defendants. THE relations
to MR. STAMPS was also indicated in the phone. THE I.D.'s
and Pictures were sent to THE SPECIAL INVESTIGATIONS DIVISION
OF MONTGOMERY COUNTY POLICE, ELECTRONIC technical surveillance
Unit. THIS is how Capalupo was able to obtain arrest warrants
for MR. Narce and MR Robb.

IN Montgomery County Circuit Court, during trial Capalupo was
ASKED "when" he retrieved data from the phone. He Replied "after
the warrant was issued. Ineffective trial counsel never followed
up to ask How Capalupo "knew" the names and addresses of the
UNKNOWN suspects to charge them. Likewise, Capalupo was not asked
How Capalupo was able to show the codefendant's pictures to Mr.
Robb's daughters for Identification. Counsel never asked how
the co-defendant's addresses were known, or even how MR. Robb's
work address became known, since Robb was arrested when he
arrived for work. THE fourth Amendment violations were
Reversible Error and violated RILEY V. CALIFORNIA, 134 S.Ct.
2473 (2014). Without the unlawfully seized evidence, there
would be no case, as the burden of proof could not be
met. THE decision to search without a search warrant could
not be incident to a lawful arrest, and it was impossible for
Capalupo to obtain the evidence seized from the phone
to file charges and arrest co-defendant, without the
illegal search and seizure of cell phone data.

Argument # 2

The Lower Court abused its discretion when ruling officer Rollins did not violate the 4th amendment by providing knowingly false untruthful and inadequate information in an affidavit supporting **STamps' extradition** from Washington D.C. to Maryland.

Leroy Rollins, Badge # 4020, on 11/18/14 ^{was} notified by Montgomery County Police Dept. that Mr. STamps was wanted in Montgomery Co. for a homicide. The Wash. DC Form states the Date of Warrant was 11/18/14. The warrant does not indicate a deceased name, place of incident, eyewitness, no co-defendant, no surveillance tape, no DNA, no time of death.

The "Knowingly False, untruthful and inadequate information comes from Mr. STamps' 'alibi', verified by Capalupo and Sgt. Grimes, who talked to Wal Mart Supervisors, who pulled up the recordings which revealed STamps was not in Montgomery County on Aug. 14, 2014 or Nov. 06, 2014, because STamps was at Wal Mart all day. His presence was verified by the 168 t.v.'s or security cameras controlled by Wal Mart.

ARGUMENT #3

THE LOWER COURTS Erred or ABUSED their Discretion By Failing to Apply "Stare-Decisis" Since HECK v Humphrey was overruled by Hash v Close.

Initially, "Litigating" the Legality of plaintiff's seizure of His property was not properly Litigated. (See Argument #1). A §1983 was unavailable to recover damages on claims that necessarily imply the invalidity of the plaintiff's conviction or sentence unless the plaintiff can demonstrate the conviction or sentence has been reversed on direct Appeal, expunged by Executive Order, invalidated by an authorized State tribunal, or called into question by a Federal court's issuance of a writ habeas corpus. However, Hash v Close overruled HECK v Humphrey, 512 U.S. 477 (1994)

The issue of "Stare-decisis" is also at issue because it requires respect to Hash v Close, 968 F. Supp. 2d 825 (2013). Of the issues in that case, misconduct by the police and gross misconduct of the prosecution that violated Hash's guarantees of due process, and a fair trial, Hash, as Mr. STAMPS' case, the transgression entitled them to relief. 968 F. Supp. 2d 828. The Government's Motion to Dismiss was denied.