

19-8842
No. 18-3730 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

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Angel Prado — PETITIONER
(Your Name)

United States vs.
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for Third Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Angel Prado
(Your Name)

555 Geo Drive
(Address)

PHILIPSBURG PA 16866
(City, State, Zip Code)

401-641-0963
(Phone Number)

QUESTION(S) PRESENTED

- 1) The warning ticket was printed 9:56^{am} and the recorded stop was 9:58am. The Middle District Court is Agree in Trooper Lindsay Testimony in across the hearing. In the moment that the officer (K-9) is in threat for issue the warning ticket and print out, why is there a discrepancy?
- 2) Whether Petitioner's conviction is legal and Constitutionally valid WHERE:
 - a) Petitioner's SPEEDY TRIAL RIGHTS is violated
- 3) Why Wasn't Trooper GERKEN is not included in the statement and testimony the Suppress hearing as the video show?
 - a) In the video evidence he have show the moment that I stop the search, Trooper Lindsay ignore my requesting.

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:

RELATED CASES

1) Commonwealth v. Turney, 76 Pa. D. & C. 4th 211, 2005 Pa. A.Q.
2) " v. Gleason, 567 Pa. 111, 785 A.2d 983 (Pa. 2001)
3) " v. Thrower, 2008 Pa. Super. Unpub. Lexis 4077
4) " v. Enick, 2013 Pa. Super 176, 70 A.3d 843, 847

NOTE: In some related cases, the Court found the probable cause because the driver put the incoming traffic in danger. And the case on hand, Mr. Prado was traveling on a straightaway and was not in danger of facing any oncoming traffic or vehicles on the side of the road. Video evidence shows and Trooper Lindsay testified. *Id* (2017 U.S. Dist. Lexis) at 27:21-28:4; Court Ex 7

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APPENDIX A

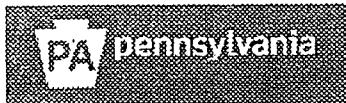
APPENDIX B *Decision of appeal of the 3rd Circuit Court*

APPENDIX C *Police Warning Notice (copy)*

APPENDIX D *Petition for REHEARING*

APPENDIX E

APPENDIX F



Police Warning Notice

W21QVCTWRR6

Stop & Proroximately 9:50 AM

Issued Date 12/19/2013 Issued Time 09:56

Reason TRAFFIC VIOLATION		Nature of Offense OTHER						Offense - Other VC3309	
Item Requiring Repair, Replacement or Re-Inspection								Sticker Year	Sticker Month
Issued To DRIVER	First Name ANGEL		Middle Name		Last Name PRADO			Suffix	Gender M
Address Street 58 K JUNE ST			City PROVIDENCE (USA)					State RI	Zip Code 02908
Date of Birth 05/22/1972	License Number 9989756	License State RI	Lic. Exp. Date	Class DL	Restriction	CDL NO	Primary Phone Number	2nd Telephone Number	
Owner /Leasee or Carrier Name VILLANUEVA				Owner First Name RONELL				Owner Middle Name M	
Owner Address Street 228 SEAVIER ST				City DORCHESTER (USA)				State MA	Zip Code 02124
Vehicle Yr. 2006	Plate No. 839XH5	State MA	Vehicle Make HONDA	Vehicle Model ODYSSEY		Vehicle Type STATION WAGON - SUV		Vehicle Color RED	
VIN 5FNRL386X6B426894		Location ON I-80 E NEAR 285.8							
Comm. Veh. NO	Hazmat	County MONROE	Municipality TOBYHANNA TWP					Related Citation/Warning #	Zone 99
Comments									
Police Officer TPR LINDSAY				Badge Number 10013	Agency PA STATE POLICE - EASTERN INT UNIT			PAPSP1A00	

No Further Action Required

You must correct the equipment problem(s) shown above or produce the above document and have any Trooper/Police Officer verify that it has been corrected or document was produced. Verification must be done within 5 days of the date of this warning. Mail or deliver the bottom section, properly verified to insure cancellation of the complaint. Failure to do so will bring penalties as prescribed by law.

You must have this Vehicle inspected by an official State Inspection Station. The Inspection Station will certify that it inspected this vehicle by filling out the section below. Certification must be made within 5 days of this warning. Mail or deliver the bottom section, properly certified to insure cancellation of the complaint. Failure to comply will bring penalties as prescribed by law.

* Please make a copy of this entire document, for your records, if having to return lower portion.

Cut across dotted line after Certification/Verification completed

Certification - Official Inspection Station

I certify that the equipment on the vehicle described herein has been corrected and/or repaired and restored to a safe operating condition and upon this date complies with the requirements of the Pennsylvania Vehicle Code and Department of Transportation's regulations.

Name of Official Inspection Station _____

Address _____

Inspection Station No. _____ Phone No. _____ Date _____ Time _____

Signed _____ Cert. Mech. No. _____

*Misstatement of fact may result in suspension of your inspection privileges

Verification by Trooper/Officer

I verify that the document has been produced or faulty equipment has been corrected.

Signature of Trooper/Officer _____ Badge No. _____

Print Last Name _____ Date _____

Agency Name _____

Address _____ Phone No. _____

Insurance Co. (when applicable) _____ Policy No. _____ Phone No. _____

Mail or Deliver to:

PA STATE POLICE - EASTERN INT UNIT

1800 ELMERTON AVENUE

HARRISBURG

PA 17110

PRADO

TPR

LINDSAY

W21QVCTWRR6

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
1) Rodriguez v. United States 575 U.S. -2015	131
2) Terry v. Ohio, 392 U.S. 1 (1968) —	= 132
3) Jacobson, 466 U.S. at 124	132

STATUTES AND RULES

OTHER

1) Rodriguez v. United States 575 U.S. - 2015

Thus, the Supreme Court has held that a traffic stop "can become unlawful if it is prolonged beyond the time reasonably required to complete the mission" of issuing a warning ticket.

Here too, an otherwise otherwise lawful stop for a motor vehicle violation was unconstitutionally prolonged by requesting canine back up which occasioned a total 25-32 minutes delay in the completion of the traffic stop. "United States v. Prado, 2017 U.S. Dist. Lexis 21648, 2017 WL 630854, at 4 (M.D.PA.2017)"

2) Terry v. Ohio, 392 U.S. 1 (1968)

The Police may conduct an investigative detention of an individual provided that the Police have a reasonable Articulable Suspicion that a crime has been committed or that Criminal activity is Afoot.

It is well established that a "traffic stop" constitutes a Seizure under the Fourth Amendment, which is considered "(a) relatively brief encounter" akin to a Terry stop, as opposed to an arrest.

i) UNITED STATES V. JACOBSEN, 466 U.S. 109, 124 (1984)

As such, a seizure that is lawful at its inception can violate the Fourth Amendment if the manner of execution unreasonably侵犯 other Constitutional interests.

(Seizure remains lawful "so long as (unrelated) inquiries do not measurably extend the duration of the stop) Jacobsen, 466, U.S. at 124.

In Rodriguez's The Supreme Court held that a 7-8 minute period from the time of the issuance of the written warning until the dog alerted to the presence of narcotics was not a de minimis intrusion of Rodriguez's Fourth Amendment rights as thus a 7-8 minute delay unconstitutionally prolonged an otherwise lawful traffic stop.

Further exacerbating the prolonged nature of the traffic stop is the Trooper Lindsay admission that Appellant would have never been free to leave after the issuance of the warning ticket even if he had refused consent to search. N.T. 12/13/16 at 29-30.

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 B 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 _____ 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.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 18-3730

UNITED STATES OF AMERICA

v.

ANGEL PRADO,
APPELLANT

Appeal from the United States District Court
for the Middle District of Pennsylvania
(District Court No. 3-15-cr-00151-001)
District Judge: Honorable Robert D. Mariani

Submitted Pursuant to Third Circuit LAR 34.1(a)
on September 26, 2019

Before: SMITH, *Chief Judge*, McKEE and PHIPPS, *Circuit Judges*.

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted September 26, 2019. On consideration whereof,

It is now hereby ORDERED and ADJUDGED by this Court that the Order of the District Court, entered on December 13, 2018, is hereby AFFIRMED. All of the above in accordance with the opinion of the Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

DATED: December 24, 2019

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 24, 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: January 16, 2020, and a copy of the order denying rehearing appears at Appendix D.

An extension of time to file the petition for a writ of certiorari was granted to and including March 19, 2020 (date) on August 2020 (date) in Application No. 18 A 3730.

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).

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-3730

UNITED STATES OF AMERICA

v.

ANGEL PRADO,

APPELLANT

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN, HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY and PHIPPS Circuit Judges

The petition for rehearing filed by **appellant** in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Theodore McKee
Circuit Judge

Dated: January 16, 2020

Lmr/cc: Francis P. Sempa

Elliot M. Cohen

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

The Appellant, Angel Fredo, was indicted by a Grand Jury of the United States District Court for the Middle District of Pennsylvania (Scranton Division) on July 21, 2015. The indictment charged that on or about December 19, 2013, that he aided and abetted possessed with the intent to distribute more than one kilogram of heroin in violation of 21 U.S.C. 841(a)(1) and (b)(1)(A) and 18 U.S.C. 2. A motion to Suppress was litigated on June 9, 2016 and de novo hearing was litigated on December 13, 2016, and the motion was granted in part and denied in part.

On July, 9, 2018, the Appellant entered a guilty plea to one count of the indictment was conditioned on his ability to preserve his Right for Appeal the District Court's refusal to Suppress the physical evidence. Was sentenced to 120 months incarceration to be followed by Five (5) years of Supervised release, along with \$100. special assessment.