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September 15, 2021

Clerk of Court
United States Supreme Court

Re: *Wilson v. California*, No. 20-1737

To the Clerk of the Court:

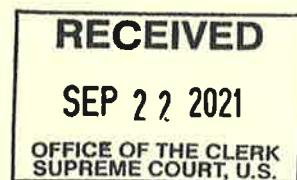
I wish to inform the Court of a related case that is relevant to the petition for a writ of certiorari currently scheduled for conference on September 27, 2021. *See Wilson v. California*, No. 20-1737.

Petitioner, Mr. Wilson, was prosecuted in California state court and federally in the Southern District of California. Both prosecutions arose from the exact same search and central evidence against petitioner in both cases was derived from that search.

Petitioner brought similar motions to suppress in both proceedings. The California superior court and the federal district court denied the motions. Petitioner was then convicted in both cases and filed appeals to the California Court of Appeal and the Ninth Circuit, respectively. The appeals challenged the denials of the motions to suppress on nearly identical grounds.

The Ninth Circuit held argument first, on November 15, 2019. Although nearly two years have passed, a decision on the merits has not been issued. Counsel in that case recently filed a notice of delay with the Ninth Circuit (attached).

While the federal appeal was pending in the Ninth Circuit, the California Court of Appeal issued a published decision affirming the denial of suppression and the California Supreme Court denied review. *People v. Wilson* (2020) 56 Cal.App.5th 128. The current petition for a writ of certiorari stems from those decisions.

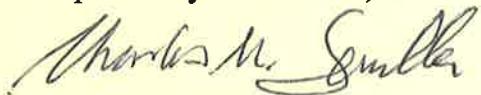


I believe it would serve the interests of justice to stay further consideration of the petition for a writ of certiorari, until the Ninth Circuit rules. If the Ninth Circuit reverses, it would create a split on a very important Fourth Amendment issue, within the same case, and also within the Circuits. *See, e.g., United States v. Miller*, 982 F.3d 412 (6th Cir. 2020). Moreover, if this Court denies the petition, and the Ninth Circuit later reversed, Mr. Wilson may be left without recourse on the state side, because Fourth Amendment claims typically cannot be raised under 28 U.S.C. § 2254. *See Stone v. Powell*, 428 U.S. 465, 482 (1976).

Accordingly, a stay is appropriate.

We thank the Court for its consideration.

Respectfully submitted,



Charles M. Sevilla
Counsel for Petitioner Wilson

cc: Rob Bonta, Attorney General
State of California, Respondent

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August 24, 2021

Molly Dwyer, Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: Notice under Ninth Circuit Rule 25-2(3)
United States v. Wilson, Case No. 18-50440
Argued: November 15, 2019 in Pasadena
Panel: Hon. Berzon, Hon. Watford, Hon. Whaley

Dear Ms. Dwyer:

On November 15, 2019, the Court took this case under submission. A decision on the merits has not been issued.

I write because, on September 27, 2021, the United States Supreme Court will conference Mr. Wilson's petition for a writ of certiorari to the California Supreme Court from his state court conviction. *See Wilson v. California*, No. 20-1737.

As this Court is aware, both the federal and state criminal prosecutions arose from the same search. That search is the subject of Mr. Wilson's petition for a writ of certiorari. I believe a ruling from this Court will be material to the Supreme Court's consideration. To that end, if the Supreme Court denies the petition, Mr. Wilson's state conviction will of course be final. And Fourth Amendment claims typically cannot be raised under 28 U.S.C. § 2254. *See Stone v. Powell*, 428 U.S. 465, 482 (1976).

Respectfully submitted,
s/ Devin Burstein
Devin J. Burstein