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September 21, 2021

Clerk of Court  
Supreme Court of the United States  
1 First Street, NE  
Washington DC 20543

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

To the Clerk of the Court:

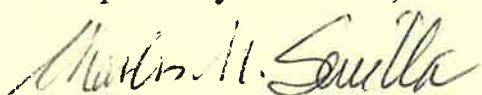
I represent petitioner Wilson in his pending petition before the Court. The case is scheduled for conference on September 27, 2021. This letter is to update the September 15th letter I sent the Court requesting a stay of consideration of the petition given the pending Ninth Circuit case involving the identical search involved in petitioner's case.

Today, in *United States v. Wilson*, --- F.4th ---, No. 18-50440 (9th Cir. 2021), the Ninth Circuit Court of Appeals issued a published opinion reversing the denial of petitioner's motion to suppress and vacating his federal convictions. See attached declaration of attorney Devin Burstein and attached Opinion. This ruling creates a split of authority on a very important Fourth Amendment issue, not only within the same case, but also within the Circuits. See, e.g., *United States v. Miller*, 982 F.3d 412 (6th Cir. 2020).

Accordingly, a stay is appropriate for the Court to consider the Ninth Circuit decision filed today.

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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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

I, Devin Burstein, declare the following is true:

1. I represent Mr. Luke Wilson on appeal from his federal child pornography convictions.
2. Today, in *United States v. Wilson*, --- F.4th ---, No. 18-50440 (9th Cir. 2021), the Ninth Circuit Court of Appeals issued a published opinion reversing the denial of his motion to suppress and vacating his convictions. The opinion is attached. At issue was “whether the government’s warrantless search of Wilson’s email attachments was justified by the private search exception to the Fourth Amendment.” *Slip Op.* at 6.
3. The search in the federal case is the *exact* same search that also gave rise to the California state prosecution, which is the subject of the pending petition for a writ of certiorari currently scheduled for conference on September 27, 2021. *See Wilson v. California*, No. 20-1737.
4. The Fourth Amendment issue is identical in both the state and federal appeals.
5. The Ninth Circuit opinion creates a split with the California Court of Appeal on the same issue from the same search. It also creates a split of authority with other Circuits. *See United States v. Reddick*, 900 F.3d 636 (5th Cir. 2018); *United States v. Miller*, 982 F.3d 412, 427 (6th Cir. 2020).
6. Although Mr. Wilson is the prevailing party in the federal case, given the importance of the issue, and in light of Mr. Wilson’s state court life sentence, I intend to file a petition for a writ of certiorari. I will file the petition by October 15, 2021.
7. On behalf of Mr. Wilson, I respectfully request the Court stay consideration of his pending petition (No. 20-1737) until I have filed the petition in the federal case.

8. I believe this stay will serve the interests of justice. To this end, the Fourth Amendment analysis by the Ninth Circuit is far more thorough and comprehensive than that of the California Court of Appeal. As such, taken together, the cases will provide a superior vehicle for review.

*/s/ Devin Burstein*

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Devin Burstein  
Warren & Burstein