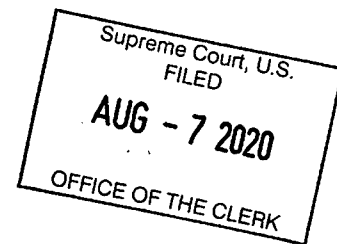No. 20-5390

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL BETTS
_____ — PETITIONER
(Your Name)

vs.

UNITED STATES
_____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

uNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL BETTS

_____
(Your Name)

F.C.I. HAZELTON P.O. BOX 5000
_____
(Address)

Bruceton Mills West Virginia, 26525

_____
(City, State, Zip Code)

_____
(Phone Number)

## QUESTION(S) PRESENTED

Whether a police officer inquiring about drugs without reasonable suspicion unconstitutionally broadens a traffic investigation.

# TABLE OF CONTENTS

## INDEX TO APPENDICES

# LIST OF PARTIES

[x] 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

Berkemer v. McCurty (1984) 468 U.S. 420 82L Ed 2B 317, 104 S. ct. 3138

Dunaway v. New York (1979) 442 U.S. 200, 60 L Ed 2d 824, 995 S. ct. 2248

Graham v. Connor (1989) 468 U.S. 386, 104 L Ed 2B 443, 109 S. ct. 1865

Hiibel v. Sixth Judicial Dist. Court of Nev., (2004) 159 LEd 2B 292, 124 S ct 2451

Ohio v. Robinette (1996) 136 L Ed 2b 347, 117 S. Ct. 417

Terry v. Ohio (1968) 392 U.S. 1, 20 LEd 2b 889, 88 S. Ct. 1868

# TABLE OF AUTHORITIES CITED

## STATUTES AND RULES

## 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

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

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

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[X] is unpublished.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[ ] is unpublished.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.

1.

## JURISDICTION

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

The date on which the United States Court of Appeals decided my case
.was. _March 27, 2020_____.

[ ] 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: _May 11, 2020_____, and a copy of the
order denying rehearing appears at Appendix __B___.

[ ] 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).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment

The right of the people to be secure in their persons, houses, papers and effects, against unresonable 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 persons or things to be seized.

§ 7. Permissible conduct pursuant to detention after stop

A law enforcement officer's conduct after making an investigatory stop of a person under the Federal Constitution's fourth Amendment, the Supreme Court has ruled, must be reasonably nelated in scope to the officers justification for thetiating the stop.

## STATEMENT OF THE CASE

On November 28, 2016 an identified citizen called 911 and reported suspicious activity in the parking lot of Suburban Market in Salem Ohio. Officer Donald Paulin initiated an investigative detention while observing Betts talking on his cell phone. Paulin ran a check on Betts's license plate, identification, and vin number to the vehicle. Within a few minutes Officers learned that the license plates was invalid and needed to be confiscated. Officers also learned that Betts did not have a license, that the car was not stolen, that he had no warrents and the shop had not been burglarized. Betts provided the address he was looking for on Arch Street apon request. Betts also provided the name of the female whom resided at the address he provided. Not knowing if Betts was looking for a drug house in Salem, officers on the scene called for a police dog. Abandoning the traffic investigation.

Roughly five minutes after the call canine handler Michael Garber arrived with his police dog Simon. After being provided the address Betts was looking for Canine Handler Michael Garber told officers on the scene that the address was in neighboring Alliance Ohio. However, Offericers on the scene insisted that he run the dog.

"We have a dog we may as well use it"

Apon doing the sniff of the vehicle Canine Simon alledgedly alerted to the presence of contraband. Offecers then searched the vehicle without Betts's consent and found drugs and a loaded firearm. Betts was charged under Ohio law with weapons under disability. The state of Ohio dismissed the charges and Betts was indicted under federal law with possession with intent to

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distribute and felon in possession of a firearm. Betts moved to suppress the evidence on fourth amendment grounds. The District Court denied Betts's motion to suppress and a jury convicted Betts. Betts then appealed to The United States Court of Appeals for the Sixth Circuit. The court of appeals affirmed the judgement of the district court. Betts later filed a timely petition for rehearing with the court of appeals and was denied on May 11, 2020.

## REASONS FOR GRANTING THE PETITION

The United States Court of Appeals for the Sixth Circuit has enter-
ed a decision in conflict with another United States Court of Appeals on
the same important matter. Let's take United States v. Quinn for example,
in United States v. Quinn, 815 f.2d 153, 159 (CA1 1987) it was ruled that

> "Officers must have reasonable suspicion that a car contains
> narcotics at the moment a dog sniff is performed."

Second, The united states court of appeals for the sixth circuit
has decided an important federal question in a way that conflicts with a
decision by a state court of last resort. In People v. Cox, 202 Ill 2d 462,
782 NE2d 275 (2002), the court ruled inthat cAse that

> "The police did not detect the order of marijuana in the car or note
> any other evidence suggesting the presence of illegal drugs".
> Ibid. Lacking "specific and articulable facts" supporting the canine
> sniff, ibid. (quoting Cox, 202 Ill 2d, at 470-471, 782 NE2d, at 281),
> "the police impermissibly broadened the scope of the traffic stop
> in this case into a drug investigation."

In the instant case United States v. Betts file name: 20a0178n.06. The
canine sniff was justified because it occured while officers awaited a
tow truck that was never called for by police. It is this reason that the
decision of the lower couet is erroneous. In a dessenting opinion in Ill-
inois v. Caballes, 543 U.S. 405, 408-09 (2005). Justice Souter said that

> "The government may not take advantage of a suspectls immobility
> to search for evidence unrelated to the reason for the detention."

Futhermore, the lower court failed to apply Terry's reasonable-
relation test, which instructs that the officers actions must be reasonably
related in scope to the circumstances which justified the interference in
the first place; it also encompasses the manner in which the seizure is
conducted. The actions of the officers on the night of November 28, 2016
has so far departed from the accepted and usual course of judicial proc-
eedings as to call for an excercise of this court's supervisory power.

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Lastly, the court of appeals has decided an important federal question

in a way that conflicts with relevent decisions of this court. e.g. see

Rodriquez Rodriguez, 575 U.S. at 354.
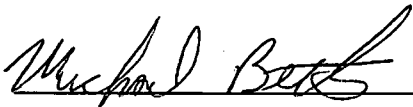       (Authority for the seizure thus ends when tasks tied to
       the traffic infraction are-or reasonably should have been-
       completed.)

The qusetion to the Supreme Court is of nation importance because it draws

the line between reasonable and unreasonable.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: Aug 7, 2020