

No. **20-5606**

**ORIGINAL**

IN THE  
SUPREME COURT-OF THE UNITED STATES

Keith A. Brown — PETITIONER  
(Your Name)

VS.

Alberto Ramirez — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court, (Idaho), 1:17-Cv-00093-CWD  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

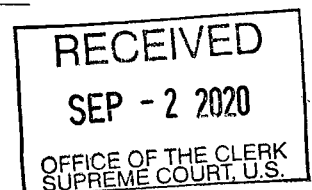
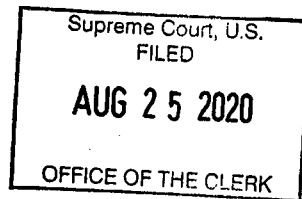
PETITION FOR WRIT OF CERTIORARI

Keith A. Brown  
(Your Name)

Post Office Box 70010  
(Address)

Boise, Idaho 83707  
(City, State, Zip Code)

(Phone Number)



## QUESTION(S) PRESENTED

- 1). During a hearing on a Motion to Suppress Evidence, when the State fails to carry it's burden of proof, is the remedy suppression of the evidence?/ Or, can the State simply be allowed to have another hearing and a second bite of the apple, i.e., try to carry the burden of proof that it failed to carry the first time?
- 2). If the State is allowed to have a second chance to carry it's burden of proof, as to the admissibility of evidence, then the Fourth Amendments protections are meaningless, because the state would ALWAYS simply win in a suppression hearing because they would have many, many chances to cure any defects.
- 3). When, on Appeal of a Motion to Suppress evidence, the Court finds the State did not carry it's burden of proof, is not the remedy Suppression of the evidence?
- 4). Has the State of Idaho failed to follow the Fourth Amendment to the United states Constitution?
- 5). When a State commits a criminal Defendant as incompetent, can statements made by that person be used against him in that proceeding? (Court ordered the Defendant as not competent to understand the proceedings, and unable to assist in his defense, yet used his statements against that was made when he was deemed to be incompetent).
- 6). Did the United States District Court err when it refused to grant a Certificate of Appealability?
- 7). Did the Ninth Circuit Court of Appeals err when it refused to grant a Certificate of Appealability?
- 8). When a Criminal Defendant provides evidence of self defense, is he entitled to a hearing in which the State must prove he did not act in self defense? (Burden Shifting if not granted such a hearing).
- 9). Are the statements of an incompetent person, (One who has been committed to a mental institution), admissible in a criminal proceeding?

## 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:
-

## TABLE OF AUTHORITIES CITED

### CASES

PAGE NUMBER

Please read the supporting memorandum enclosed herein.

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### STATUTES AND RULES

Please read the supporting memorandum enclosed herein.

### OTHER

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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 A 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 State v. Brown, 313 P.3d 751, (2013); 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 June 12th, 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: August 6th, 2020, and a copy of the order denying rehearing appears at Appendix C.

☐ 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 to the United States Constitution.

The Fifth Amendment to the United States Constitution.

The Sixth Amendment to the United States Constitution.

The Fourteenth Amendment to the United States Constitution.

The right to a fair and impartial trial would be implicated if this Court does not issue a Writ of Certiorari, or issue the Writ of Habeas Corpus sought.

The right to self defense would become non-existent in the United states of America if this Court does not act in this case.

The rights established by the Fourth Amendment, prohibiting illegal searches and seizures, would be "non-existent" if this Court does not issue the Writ of Certiorari.



## STATEMENT OF THE CASE

The Petitioner seeks a Certificate of Appealability or a Writ of Certiorari from this Court.

The Petitioner contends that if this Court does not issue a Writ of Certiorari addressing the denial of a Certificate of Appealability, that it would allow the Fourth Amendment to the United States Constitution to be seriously eroded, leaving no protection for the citizens of these United States.

In this case the Petitioner prevailed in his Motion to suppress evidence, yet the Court did not order the evidence to be suppressed. Instead the Court ordered that the State of Idaho would be allowed to have another chance to prove that the evidence should be admissible in the Court.

This action of allowing the State of Idaho to have a "second bite at the apple", has denied to the Petitioner Due Process of Law, and has relieved the State of it's burden of proof.

The United States District Court, in Appendix A, states that there is no authority that prevents the State from having the second chance to prove admissibility. The Petitioner argued that there was clear case precedent that provides that when the State fails to carry it's burden of proof as to admissibility of evidence, that the remedy is to suppress the evidence.

If this Court allows the Order of the United States District to stand, and if this Court allows the United States Court of Appeals order to stand, then there would never be any need to order suppression of evidence, because the State's would be allowed to have a second chance to carry it's burden of proof.

## REASONS FOR GRANTING THE PETITION

This Court should grant to the Petitioner the sought after Writ of Certiorari. If this Court does not do so, then it would mean that there is no right to self defense in the United States.

In this case, the Petitioner clearly showed evidence of self defense, but the Court did not order a hearing on the matter, even though the State of Idaho agreed that there was evidence of self defense. This act relieved the State of Idaho of it's burden of proof, and made the Petitioner not have any type of defense.

Also, and just as important, the Petitioner prevailed in the State Supreme Court on his Motion to Suppress evidence. However, instead of ordering the evidence to be suppressed, the State Supreme Court allowed the State to go back and re-due the suppression hearing, effectively giving the State. "two bites at the apple".

If this Court allows this to stand, then there would be no need of the Fourth Amendment to the United States Constitution as the government would ALWAYS be able to prevail, being given many many "bites at the apple".

The United States District Court erred when it did not grant to the Petitioner a Certificate of Appealability. The Petitioner clearly and conclusively met the stand of proof to have been granted a Certificate of Appealability, and it is very clear it was error not to order or to grant to the Petitioner such a Certificate.

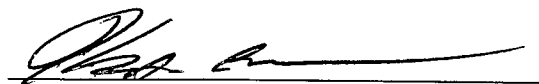
It is based upon the order of the United States District Court that this Court should find this case worthy of accepting and order briefing on the issues in this case.

If this Court does not grant the Writ of Certiorari, then statements of persons committed to an institution as mentally ill, to be used to convict them in criminal trials; even if it is the State who is responsible for such commitment. In short, the State would be allowed to let an incarcerated person, "slip mentally", have that person committed to a mental institution, and then use statements made by that person while incompetent, to convict them of a criminal offense.

#### CONCLUSION

This case presents several questions of serious Constitutional importance. Counsel should be appointed, and this Court should rule. The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "John A. [unclear]", written over a horizontal line.

Date: 8/21/20