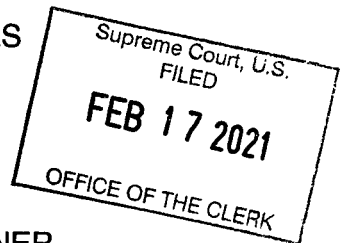


No. 20-7271

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Ramon Boyce — PETITIONER
(Your Name)

vs.

State of Ohio — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Ohio Court of Appeals Second Appellate District

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

PETITION FOR WRIT OF CERTIORARI

Ramon Boyce

(Your Name)

Inmate No. A744-309
Warren Correctional Institution
5787 State Route 63

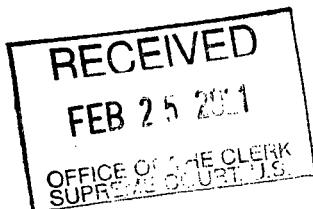
(Address)

Lebanon, Ohio 45036

(City, State, Zip Code)

(513) 932-3388

(Phone Number)



QUESTION(S) PRESENTED

If the mission of a traffic stop is completed does Illinois v. Caballes 543 U.S. 405, 125 S.Ct. 834, 160 L.Ed. 2d 842 have an application to that stop concerning the deployment of a K9?

When concerning K9 deployment during a traffic stop which case controls Illinois v. Caballes 543 U.S. 405, 125 S.Ct. 834, 160 L.Ed. 2d 842 or Rodriguez v. United States 575 U.S. 348.?

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

- State v. Boyce Case No. 17-CR 761 Common Pleas Court, Clark County Ohio
Judgment entered May 15, 2018.
- State v. Boyce Case No. 18-CA-0077 Second District Court of Appeals for Ohio
Judgment entered July 2, 2020. Reconsideration Judgment entered September 8, 2020.
- State v. Boyce Case No. 2020-1210 Supreme Court of Ohio Judgment entered
November 24, 2020.
- State v. Boyce Case No. 21-0121 Supreme Court of Ohio pending (regarding
an appeal of denial of reopening of direct appeal concerning 18-CA-0077) Filed
January 27, 2021.

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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 State courts:

The opinion of the highest state court to review the merits appears at Appendix [A] to the petition and is reported at State v. Boyce, 2020-Ohio-3573. The opinion was rendered on July 2nd 2020, in the Second District Court of Appeals for Ohio.

[✓] A timely reconsideration was filed on July 13th 2020. The Ohio Second District Court of Appeals rendered an opinion on the reconsideration on September 8th 2020. Unreported. The opinion appears at Appendix [B].

[✓] A timely appeal was filed to the Supreme Court of Ohio on October 5th, 2020. On November 24th 2020 that Court denied or declined Jurisdiction, the entry appears at Appendix [C] to the petition and is reported at State v. Boyce 160 Ohio St. 3d 1461.

JURISDICTION

☐ For cases from **federal courts:**

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

☐ 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: _____, 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. § 1254(1).

☒ For cases from **state courts:**

The date on which the highest state court decided my case was Nov. 24, 2020.
A copy of that decision appears at Appendix C.

☐ 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

Fourth Amendment right to be free from unreasonable searches, and seizures.

STATEMENT OF THE CASE

On December 2017 a Clark County Ohio Grand Jury indicted Petitioner Ramon Boyce in Case No. 17-CR-761 on 15 counts of burglary of which were all third degree felonies except one which was a second-degree felony; 6 counts of receiving stolen property, three fifth-degree felonies and three misdemeanors of the first degree; and 1 count of engaging in a pattern of corrupt activity, a first-degree felony. The indictment also sought forfeiture of vehicles owned by Petitioner.

On January 8, 2018 the Ohio Court of Common Pleas for Clark County held a suppression hearing involving a warrantless search of Petitioner's vehicle. Petitioner argued that the police officer unreasonably prolonged the traffic stop by conducting a free air sniff of his vehicle. The court took testimony from Officer Derrick Nichols and Appellant-Petitioner.

On January 24, 2018 the trial court overruled the motion to suppress finding the officer was free to run his K9 on a lawfully stopped vehicle.

On January 29, 2018 a Clark County Grand Jury indicted Petitioner in case No. 18-CR-55 on 3 additional counts of burglary, third degree felonies.

On April 23, 2018 the case proceeded to a jury trial, resulting in convictions on each count.

On May 15, 2018 Appellant-Petitioner was sentenced to a term of incarceration of 70 years.

Petitioner filed a timely Notice of Appeal to the Ohio Court of Appeals to the Second District Court of Appeals. He Challenged four assignments of error, as follows:

1. The trial court erred when it allowed the state to introduce evidence about specific facts regarding Mr. Boyce's prior burglary conviction.

2. The trial court erred when 1) it provided no limiting instruction before testimony concerning the circumstances giving rise to Mr. Boyce's prior burglary conviction, and 2) did not later give a proper limiting instruction regarding that testimony.

3. The trial Court erred in denying Mr. Boyce's suppression motion, which challenged a warrantless vehicle search that violated the fourth Amendment to the United States Constitution.

and

4. Mr. Boyce's sentence is clearly and convincingly unsupported by the record.

The Second District affirmed the conviction and sentence on July 2, 2020. A timely reconsideration was filed on July 13, 2020 pointing out that the court had erred in the facts from that of the record and in failing to apply state supreme court authority, and lastly, for the misapplication of U.S. Supreme court authority. When that court applied *Illinois v. Caballes*, 543 U.S. 405 instead of *Rodriguez v. United States*, 575 U.S. 348 concerning the mission of the stop and deployment of a K9 resulting in a constitutional violation of Boyce's rights.

The Ohio Second Appellate District overruled the application to reconsider on September 8, 2020 finding no error in their judgment and citing *Illinois v. Caballes*, 543 U.S. 405, 125 S. Ct. 834, 160 L. Ed. 2d 842. (2005) again.

On October 5, 2020 the Petitioner filed a timely Notice of Appeal to the Supreme Court of Ohio and raised the following propositions of law:

1. The Trial court erred when it allowed the State to introduce evidence about specific facts regarding Mr. Boyce's prior burglary conviction. (Entry re. 404(B) Evidence, April 19, 2018; Tr. Vol I, pp. 224-227; Tr. Vol II, pp. 398-399, 411-427; Tr. Vol. XIV, pp. 3259-3264; stipulation, April 20, 2018.)

Issue Presented for Review

Did the trial court abuse its discretion and commit plain error when it Permitted trial testimony regarding prior bad acts, when that testimony was used for purposes other than one of the proper purposes identified in Evid R. 404(B)?

And

- 2 The trial court erred in denying Mr. Boyce's Suppression motion, which challenged a warrantless vehicle search that violated the Fourth Amendment to the United States Constitution. (Entry, Jan 24, 2018.)

Issue Presented for Review

Is a traffic stop necessarily prolonged when the officer who initiated the stop is also the K9 officer who conducts a drug-dog sniff of the car when he or she could have been giving a warning or writing a citation?

On November 24, 2020 the Supreme Court of Ohio declined Jurisdiction Case No. 2020-1210.

Petitioner Ramon Boyce now seeks a timely Writ of Certiorari to this most Honorable Court.

REASONS FOR GRANTING THE PETITION

This case is important to the citizens of our country to be free from Unconstitutionally prolonged traffic stops when involving K9 deployment by law enforcement. Currently this court has two precedents, Illinois v. Caballes, 543 U.S. 405 and Rodriguez v. United States 575 U.S. 348. The two provide unclear guidance of which controls for courts, when deciding if a K9s deployment is lawful.

Both cases unaddressed concerning which controls leaves continued high risk of misinterruptions amounting to constitutional violations of citizens rights, such as has occurred in Petitioner's case. Continued unaddressed threatens our constitution concerning unreasonable searches and seizures as well.

This most high court is urged to accept this case and set in stone for the country which case Illinois v. Caballes, or Rodriguez v. United States, controls for the deployment of a K9 by law enforcement when the mission of a traffic stop has been completed as set by this court.

Lastly, In Petitioner's case both the trial court and Ohio Second District court of Appeals elected to apply Illinois v. Caballes for the proposition that a K9 can be ran for any traffic stop and disregarded the mission of the stop was completed prior to the deployment of the K9, with the officers admission of nothing standing out of Petitioner or his vehicle, at anytime during his observations, for a non-dailable offense "a marked lane violation."

Under Caballes in light of the above proposition it can be said Petitioner's rights were not violated by the K9 deployment. Yet in light of Rodriguez the K9s deployment would be or is unlawful because the mission of the stop was completed prior to the K9s deployment by law enforcement. This court is urged to answer which controls.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ramon Byrne

Date: February 16, 2021