

20-7979

No. 20-55015

ORIGINAL

Supreme Court, U.S.

FILED

FEB 19 2021

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## Supreme Court of the United States

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Talmadge Adib Talib T-A

Petitioner,

vs.

Juan Guerrero, et al.,

Respondent,

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On Petition for

Writ of Certiorari

The United States Supreme Court

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### **PETITION FOR WRIT OF CERTIORARI**

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Pro Se / Sui Juris

## **I. Question Presented**

Where jurisdiction was initially questioned and never established or proven on the record, in an arrest and prosecution resulting from an “alleged” and unwarranted “traffic stop” with several violations of rights protected by the Constitution, including but not limited to right to travel, the Fourth, Fifth and Fourteenth Amendments, is it lawful for the court to grant defendants’ motion for summary judgement and the Circuit (*reviewing*) court to affirm judgment *via* respondents’ motion to affirm without review, briefing and/or arguments?

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**To avoid erroneous deprivations of the right to travel this Court should clarify the limitations of state police power as it is being abused through the pretense of minor state “traffic” codes to deprive people traveling for personal necessities (*non-commercial travel*) of rights protected by the Constitution.**

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### **III. Petition for Writ of Certiorari**

Talmadge Adib Talib T-A an American National but not a U.S. citizen domiciled in California and receives mail at: c/o P. O. Box 121, Lawndale, California [90260] respectfully petitions this court for a writ of certiorari to review the judgement of the 9<sup>th</sup> Circuit Court of Appeals.

### **IV. Opinions Below**

The decision by the 9<sup>th</sup> Circuit Court of Appeals is reported as Talmadge Adib Talib v. Juan Guerrero, et al., No. 20-55015. The 9<sup>th</sup> Circuit Court of Appeals granted the respondents' motion to affirm the District Court's order granting the defendants' motion for summary judgement and dismissal of the case. The orders and explanations are attached at the ATTACHMENT page..

### **V. Jurisdiction**

The 9<sup>th</sup> Circuit Court of Appeals' order granting respondents' motion to affirm the District Court's order granting defendants' MSJ was filed on November 18, 2020. Talmadge Adib Talib T-A invokes this Court's jurisdiction under 28 U.S.C. § 1254.

### **VI. Constitutional Provisions Involved**

#### **United States Constitution Amendment IV:**

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

### **United States Constitution Amendment V:**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; *nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law*; nor shall private property be taken for public use without just compensation.

### **United States Constitution Amendment XIV:**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; *nor shall any State deprive any person of life, liberty, or property, without due process of law*; nor deny to any person within its jurisdiction the equal protection of the laws.

### **VII. Statement of the Case**

Historically this Court has upheld the right of due process of law and equal protection of the law in a myriad of cases. *Jurisdiction (challenged here and throughout this matter)* is imperative where violation of rights protected by the Constitution are concerned.

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings." *Hagans v. Lavine, 415 U. S. 533*

"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action." *Melo v. US, 505 F2d 1026*

The judgements ordered in the instant case were based upon an incident of petitioner's rights being violated by defendants and subsequently a bad-faith prosecution incorporated into the argument of the instant case wherein defendants' arguments involved multiple claims of state statutes, codes and regulatory violations. All of which were jurisdictionally and egregiously - due process of law - deficient.

Petitioner through the exercise of freedom of speech orally informed defendants that their actions were in violation of petitioner's rights – thereby giving defendants immediate notice of said violations.

The exercise of rights, nor legislative acts, nor statutes, codes and/or regulations can convert a right into a crime.

"The claim and exercise of a constitutional Right cannot be converted into a crime." *Miller v. United States, 230 V. 486, 489, (1956)*.

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." *Sherar v. Cullen, 481 F. 2d 946, (1973)*

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

*Miranda v. Arizona, 384 U.S. 436, 491, (1966).*

This case presents the question of whether rights protected by the Constitution are lost, forfeited or converted to a crime as a result of an alleged minor "traffic" violation used as a pretext for a warrantless stop and arrest.

### **VIII. Facts of the Case**

1. On July 10<sup>th</sup> 2013, after leaving a meeting at a friend's home in Inglewood my friends (Roland & Romaine Reese, hereafter Roland & Romaine) were giving me and another friend (Daniel Davis, hereafter Danny), a ride home

from the meeting. At approximately 11:05 pm what appeared to be a state marked patrol car got behind us and turned on the emergency lights directing our car to stop and we did, on the corner of 107<sup>th</sup> Street & Normandie.

2. Roland, who was behind the wheel, stopped and turned off the engine. At that time we were approached by what appeared to be two L.A. county sheriff officers. At that point Danny pulled out his cell phone and started recording the incident.
3. One of the alleged officers (Guerrero) got out of the patrol car and quickly came up to the back window, on the camper shell of the pick-up, where I was sitting with his gun drawn and pointed right at my face. He looked very nervous and agitated as he had both hands on the gun as if to be studying it in preparation to fire it. He then started yelling out questions to me.
4. At that point I was so stunned and in shock by his gun being right there in my face (at point blank range) with the little light on the barrel practically blinding me, combined with his nervousness and agitation, I just froze and did not move a muscle. I don't know or recall what he was even saying at that time because I thought anything I did or said would trigger him off into firing his weapon.
5. After a few minutes of what seemed to me like a comma that I was in my hearing and comprehension of what he was saying started to come back to me. At that time Guerrero was saying repeatedly "do you understand English?" I then said to him, "You have that gun pointed at my face, you are threaten my life..!" Guerrero then said "show me your left hand." As the light from his gun was still blinding me, I then said "I'm not moving nothing you have a gun, and it's pointed at me..! You are threatening my life..!"
6. He (Guerrero) then asked me to "step out of the vehicle." I replied "I will not step out." He then said "I'm telling you to step out of the vehicle right now!" I then replied "you have no authority over me or my liberty and I haven't

committed any crime so you are violating my rights...!” “You are threatening my life and you’re doing it under the color of law so you are violating your oath of office... you are breaking the law and committing the crime of treason..!” He then, in a very angry tone said “I’m ordering you to step out of the vehicle right now!”

7. At that point, I said “you are a public servant... so tell me what law compels me to follow your orders?” Guerrero then said “U.S. vs Miles”. And I said that’s a case... that’s not a law... tell me the law...” At that point other alleged officers were arriving and another one of them came upon the back area of the car with his gun drawn and pointed directly at my face (also at point blank range) and again the little light on the barrel was blinding my sight. At some point one of them grabbed my right arm in an effort to pull me. I then yelled out “get your hands off me..! Don’t touch me..! What law gives you the right to touch me” Guerrero again said “U.S vs Miles...”
8. I then said “that’s a case... that’s not a law... quote me the law not a case...” At that time Guerrero said “you’re being uncooperative.” I then replied “I’m not being anything... I have the right to be secure ... you are the public servant... I have the rights... At that point one of the other alleged officers said “you are being uncooperative.” Again I said “I’m not being anything... I wasn’t saying anything to you... I have the right to remain silent... You don’t have the law... you don’t have the right to do anything to me..!”
9. As the light from their guns was still virtually blinding my vision I couldn’t see who was doing the talking all the time but one of the other alleged officers then said “we do have the right to do something to you.” I then said “yea, if I commit a crime... I haven’t committed a crime so you are violating my rights”... Then one of them again said “you’re being uncooperative.”
10. I then said “no, you put your hands on me... you have no right to put your hands on me... you’re a public servant”... At that time I heard another patrol car’s screeching tires arrive on the scene. Two more alleged officers came to the back of the car and one of them (Sgt. North) had a camera and at that point

was recording the incident. He (North) started to question me and I stated "I have the right to remain silent... and he put his hands on me... and I know my rights..."

11. At some point after that one of the other alleged officers pulled the tailgate open and began to grab me again... At that point I yelled out to them all "don't touch me... don't touch me ... you're assaulting me..." Then one of them said "don't get violent". And I replied "you're the ones getting violent..." They kept saying "you're going to step out of the car..." I kept saying "I know my rights... Don't touch me..." I don't have to step out of the car... you don't touch me ... I know my rights..."
12. At that point one of them said "you're taking this too far." I then said "I'm going to take it a lot farther... because you are a public servant... You're not supposed to touch me... I know my rights... and I haven't done anything..." At that point one of them said "we can't see your hands... you're scaring us" I replied "you guys got guns... you're scaring me..."
13. Then the one with his gun still pointed at me (Orbe) said "we don't know what you have... you need to show us your hands..." I replied "you have no reason to have to know what I have... you stopped us!?" He then replied "so let me know ok." I then replied "you guys have guns.... You're threatening my life..." He then said "I don't know if you have a gun because I can't see your hands." I replied "I know you have one because you're pointing it at me."
14. He then replied "because you're not showing us your hands." I again said "what law compels me to show you my hands..?" He replied "this right here... my badge." I then said "your badge is not good enough... no... you're a public servant..." then he said "I'm not going to argue with you anymore... don't make any sudden moves because you're scaring me and I don't know if you have a weapon." I then said "you have already scared me and you have a weapon... I know you have a weapon... and you're pointing it at me..." He said "you're damn right... so don't make any sudden moves..."

15. At some time after that Romaine came to the back of the car where I was to talk to me. At that point she asked me what was going on and why was I choosing to not get out of the car? I then said "this guy has had his gun pointed at me all this time... and the other guy started grabbing and pulling on me... he assaulted me..!" I also said... "Romaine you know this is wrong... That's assault..! He got within two feet of me... he put his hands on me... he assaulted me..!" I then said "Now they're threatening to spray me with mace... well, spray me then... take me to jail, so we can get it over with and then we'll go to court...! I'm a peaceful man..!"

16. At that point, they (Park & Guerrero) started spraying mace and I started coughing and gagging as they all (the alleged officers), were yelling "show your hands... show your left hand... and... step out the car..." Then they started to forcefully remove me from the car. At that point I couldn't see anything because the mace was burning my eyes. I started yelling "get your hands off of me."

17. They each grabbed my legs and my arms and dragged me out of the car. They immediately pulled my hands behind my back, handcuffed me and sat me down on the curb. I sat there for a few minutes and at some time after that they came back and put me into their patrol car.

18. At some time after that I still could not see because of the mace but I then heard Romaine yelling out saying "you are violating my rights"... "I do not consent"... "you are molesting me"... "you are desecrating my sacred rights of my head-dress"... "you all are violating your oaths of office"... "where is your oaths of office"... she kept saying, "I do not consent"... "I have not done anything..." and "you are hurting me and I am in pain...!"

19. Sometime thereafter, they took all of us to the South L.A. Sheriff's Station. After being brought into the jail facility, I was then subjected to further violation of my rights by being patted down again, humiliated and in a state of emotional distress and trauma including but not limited to, fear, frustration, anger, anxiety, stress and duress due to where I was and why I had been brought there.

20.I did not consent to having my finger prints or my picture taken from me, but they did it anyway over my objections, against my will, through force and the threat of being again sprayed with mace. I had no knowledge of what I was being charged with and why I was there. I demanded to be brought before a magistrate/judge and I was ignored.

21.After being put through their booking process, my shoe laces where taken, I was placed into a jail-cell and I remained in custody until the next morning. At that time (the next morning), I was pulled out of the cell along with the others that were being prepared to be transported to court. Then I was told that I wouldn't be going to court and that I was being released. After several hours passed they gave me a citation finally released me.

## **IX. District Court Judgement**

In the District Court petitioner (*in pro se*) filed complaint against defendants and there were several amended complaints ordered by the district court prior to service upon the defendants. After numerous filings and counter filings of moving papers defendants ultimately were granted a motion for summary judgment through the application of a motion to reconsider using this court's newly ruled upon "Nieves" case as new authority, facts and/or evidence to strengthen their argument. Petitioner, maintaining the standing and argument of deficient due process of law and lack of jurisdiction filed response in opposition to defendants' motions. Subsequently, the District Court granted defendants' MSJ.

## **X. Direct Appeal**

On direct appeal petitioner (*in the AOB*) renewed his argument and included, as an attachment, a substantive memorandum of "the right to travel" with the renewed argument. After a number of requested extensions filed and granted to respondents they (*respondents*) filed a motion to affirm the District Court's judgement. Petitioner responded with a motion in opposition of respondents' motion and subsequently, the 9<sup>th</sup> Circuit Court of Appeals granted respondents' motion to affirm.

## XI. REASONS FOR GRANTING THE WRIT

To avoid erroneous deprivations of the right to travel this Court should clarify the limitations of state police power as it is being abused through the pretense of minor state “traffic” codes to deprive people traveling for personal necessities (*non-commercial travel*) of rights protected by the Constitution.

"With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority." *Connolly v Union Sewer Pipe Co. 184 US 540;*

"The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." *Buchanan v Warley 245 US 60;*  
*Panhandle Eastern Pipeline Co. v State Highway Comm. 294 US 613*

Although these issues of travel rights have been clearly established in the past, there needs to be new and clearly decisive Supreme Court rulings/holdings on these basic inherent rights. The state statutes do not expressly and/or clearly include personal use of an automobile in and of their regulatory scheme. The statutes make no unambiguous mention of any use other than commercial.

If the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's intent is based on a permissible construction of the statute. *Chevron U.S.A., Inc. v Natural Res. Def. Council, Inc. 467 U.S. 837*

The ambiguous and unclear nature of the state statutes are being used for violative and exploitative purposes and to claim unlawful and unestablished jurisdiction for the purpose of conducting bad-faith prosecutions (*riddled with due process of law violations*) in order to cover up abuse of power acted out by their policing agencies.

This Court is the only entity available to the people as refuge from and remedy to the injustices that are being perpetrated by the state *via* color of law and abusive police power.

**The criminalization of the poor & working class** [*i.e. black & brown communities*] of this nation has become a criminal enterprise of local government and killing fields of law enforcement agencies and officials. These are supposed to be agents and institutions of public trust and public service. The unlawful search and seizure of the people's persons, property, labor and financial resources under disguise of minor traffic infractions as "probable cause" is un-constitutional and a breach of fiduciary duty of these public servants. This literal assault on my body, violation of my privacy and theft of my private property and deliberate indifference to my concerns and my interest therein is blatantly criminal and warrants remedy of a severe punitive nature. These State agencies that maintain a custom and practice of obtaining funds (*i.e. generating revenues*) for public use and/or budgetary purposes or contractual agreements with and for private companies profit, are doing so via the violation and/or infringement upon the rights of "**the people**" (*in this case me*).

## **XII. CONCLUSION**

This case presents this Court with the opportunity to correct those injustices and set a clear and just pathway for future travelers to be free of unlawful intrusion upon rights & liberties, detainment, arrests and bad-faith prosecutions that come as the result of these kinds of unnecessary encounters.

For the forgoing reasons, **Talmadge Adib Talib T-A** respectfully requests that this Court issue a writ of certiorari to review the judgment of the 9<sup>th</sup> Circuit Court of Appeals.

I declare under penalty of perjury under the laws of the **united States of America** that the foregoing is true and correct.

**All Rights Reserved**



**Talmadge Adib Talib T-A**

**Respectfully**

2-18-2021

**Date**