No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTIAN KALEN CRAWFORD,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

On Petition for Writ of Certiorari to the Florida Second District Court of Appeal

PETITION FOR WRIT OF CERTIORARI

MICHAEL UFFERMAN
Michael Ufferman Law Firm, P.A.
2022-1 Raymond Diehl Road
Tallahassee, Florida 32308
(850) 386-2345/fax (850) 224-2340
FL Bar No. 114227
Email: ufferman@uffermanlaw.com

COUNSEL FOR THE PETITIONER

A. QUESTION PRESENTED FOR REVIEW

Whether law enforcement officers may extend the detention of a driver involved in an accident resulting in the death of another person in order to wait for a "blood draw kit" to arrive at the scene so that the suspect driver's blood can be drawn for purposes of determining whether the driver was intoxicated at the time of accident.

B. PARTIES INVOLVED

The parties involved are identified in the style of the case.

C. TABLE OF CONTENTS AND TABLE OF AUTHORITIES

1. TABLE OF CONTENTS

A. QUESTION PRESENTED FOR REVIEW ii

B. PARTIES INVOLVED iii

C. TABLE OF CONTENTS AND TABLE OF AUTHORITIES iv

1. Table of Contents iv

2. Table of Cited Authorities v

D. CITATION TO OPINION BELOW 1

E. BASIS FOR JURISDICTION 1

F. CONSTITUTIONAL PROVISION INVOLVED 1

G. STATEMENT OF THE CASE AND STATEMENT OF THE FACTS 2

H. REASON FOR GRANTING THE WRIT 8

The question presented is important 8

I. CONCLUSION 13

J. APPENDIX

2. TABLE OF CITED AUTHORITIES

a. Cases

Crawford v. State, 310 So. 3d 925 (Fla. 2d DCA 2020). 1

Faulkner v. State, 834 So. 2d 400 (Fla. 2d DCA 2003) 11

Florida v. Royer, 460 U.S. 491 (1983) 8, 10

Jenkins v. State, 385 So. 2d 1356 (Fla. 1980) 1

Miranda v. Arizona, 384 U.S. 436 (1966) 4

Norman v. State, 379 So. 2d 643 (Fla. 1980). 11

Rodriguez v. United States, 575 U.S. 348 (2015) 8

Terry v. Ohio, 392 U.S. 1 (1968) 10

United States v. Sharpe, 470 U.S. 675 (1985) 8

b. Statutes

§ 901.51, Fla. Stat. 10

28 U.S.C. § 1257 1

c. Other Authority

U.S. Const. amend. IV 1, 12

The Petitioner, CHRISTIAN KALEN CRAWFORD, requests the Court to issue a writ of certiorari to review the judgment of the Florida Second District Court of Appeal entered in this case on December 9, 2020 (A-3)[1] (rehearing denied on January 22, 2021 (A-4)).

D. CITATION TO ORDER BELOW

Crawford v. State, 310 So. 3d 925 (Fla. 2d DCA 2020).[2]

E. BASIS FOR JURISDICTION

The jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1257 to review the final judgment of the Florida Second District Court of Appeal.

F. CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment to the Constitution prohibits "unreasonable searches and seizures." U.S. Const. amend. IV.

---

[1] References to the appendix to this petition will be made by the designation "A" followed by the appropriate page number.

[2] Because the state appellate court did not issue a written opinion, the Petitioner was not entitled to seek review in the Florida Supreme Court. *See Jenkins v. State*, 385 So. 2d 1356, 1359 (Fla. 1980).

G. STATEMENT OF THE CASE AND STATEMENT OF THE FACTS

1. Statement of the case.

In 2015, the Petitioner was charged in Florida state court with three counts of DUI manslaughter and one count of DUI causing damage to property. The charges stemmed from an accident that occurred during the early morning hours of April 1, 2015, when a vehicle driven by the Petitioner hit a trailer/shed where Ivan Carlos and Brenda Aviles Pena (and her unborn baby) where sleeping.

Prior to trial, the Petitioner filed a motion to suppress the blood draw that was obtained by law enforcement officers on April 1, 2015. (A-17-19). In the motion, the Petitioner argued that the trial court erred by denying his motion to suppress the blood draw because (1) the duration of his detention at the scene of the accident was unlawful (and denied the Petitioner needed medical attention) and (2) the only purpose for the prolonged detention was so that law enforcement officers could obtain an unexpired blood kit. A hearing on the motion to suppress was held on September 23, 2016. (A-43-200). Following the hearing, the trial court denied the motion to suppress. (A-20-42).

The case proceeded to trial in October of 2017. At trial, the State relied upon the Petitioner's blood sample to establish that he was intoxicated at the time of the accident. At the conclusion of the trial, the jury found the Petitioner guilty as charged for all counts. The trial court subsequently sentenced the Petitioner to a total sentence of forty-six years' imprisonment (fifteen years' imprisonment for the DUI manslaughter counts and 364 days in jail for the DUI causing damage to property count – with the

sentences for all counts to be served consecutively). (A-5-16).

On direct appeal, the Petitioner argued that the trial court erred by denying his pretrial motion to suppress. The Florida Second District Court of Appeal affirmed the convictions and sentence without explanation. (A-3).

2. Statement of the facts.

a. Facts from the trial court's order denying the motion to suppress.

In the trial court's order denying the motion to suppress, the trial court made the following factual findings:

- "At or about 2:34 a.m. on April 1, 2015, a report of a traffic crash at the Lone Oak mobile home park was made to the Palmetto Police Department. ('PPD')." (A-21);
- "Approximately seven minutes after PPD dispatched officers to the scene, an ambulance arrives." Within five minutes of the time that the first ambulance arrived, the two victims of the accident were pronounced dead. (A-24);
- "Approximately twenty-eight minutes after being dispatched, EMS informed Officer Rossman that the Defendant's knee is somewhat deformed, that he would need stitches, and he could be transported to the hospital by EMS." Notably, when the Petitioner was finally transported to the hospital, he underwent "emergency surgery." (A-27, A-33);
- "Corporal Kelly went to the trunk of his vehicle to obtain the agency issued blood draw kit. It had expired in 2010, five years prior to the

crash." (A-27); and

- "Approximately 56 minutes after dispatch, a new blood draw kit arrives on scene." (A-30).

b. Testimony from the September 23, 2016, suppression hearing.

Kristopher Rossman. Mr. Rossman stated that in April of 2015, he was an officer with the Palmetto Police Department. (A-58). Mr. Rossman testified that during the early morning hours of April 1, 2015, he responded to the scene of an accident, and he said that when he arrived at the scene, he was informed by others at the scene that the Petitioner was the driver of the SUV that hit the trailer/shed. (A-58-63). Mr. Rossman stated that the "guys" at the scene told him that the Petitioner was "trying to run," and Mr. Rossman said that law enforcement officers proceeded to put handcuffs on the Petitioner and place him in the back of a patrol car. (A-63-64). Mr. Rossman testified that during the time that the Petitioner was handcuffed in the back of the patrol car, law enforcement officers decided to attempt to get a blood draw from the Petitioner, but Mr. Rossman said that he discovered that the blood kit the officers had on scene was outdated so they had to wait for someone to bring a new blood kit. (A-92-103). Mr. Rossman stated that the Petitioner consented for the officers to take his blood. (A-96). Mr. Rossman testified that after the officers obtained the blood draw from the Petitioner, the Petitioner was transported to the hospital in an ambulance. (A-108). Mr. Rossman stated that during the time that the Petitioner was at the scene of the accident, officers did not read *Miranda*[3] warnings to him. (A-77).

[3] *Miranda v. Arizona*, 384 U.S. 436 (1966).

Mr. Rossman testified that when he arrived at the scene, the "dash cam" in his vehicle was activated, and during Mr. Rossman's testimony, the State played the recording of the "dash cam" (State's Exhibit 1). (A-64-114). The "dash cam" recording lasted one hour and twenty-two minutes (and the recording began shortly after 2:34 a.m. on April 1, 2015). (A-114-115). The following discussions can be heard on the "dash cam" (i.e., discussions between officers):

> We have unit, we have (unintelligible) DUI or whatever it is we may have, manslaughter times three, the (unintelligible) you start pretrial, so essentially what we're discussing right now, so because (unintelligible) (unintelligible)
>
> (Unintelligible) 10-15 is right. Long time to figure out why, (unintelligible), people died (unintelligible), so that at first as (unintelligible) you know what I'm saying, so, (unintelligible) but as far as that goes, (unintelligible) not right here obviously, because (unintelligible) take him to the hospital.
>
> (Unintelligible) ID.
>
> Yes.
>
> DL good and all that?
>
> I haven't run his DL yet. (Unintelligible) right now we're trying to figure out, we don't really want to 10-15 him at this point.
>
> That's what we were just talking about.
>
> He did try to run.
>
> Yeah, but any charge (unintelligible) from this charge –
>
> We do want to try to get, I know he (unintelligible), but we do want to try to get a voluntary statement from him obviously (unintelligible)
>
> You want to do that, get a voluntary statement?
>
> Yeah, *he has to go get treated*, but (unintelligible) back to the station after he gets treated. (Unintelligible)
>
> . . . .
>
> *Well, I don't suspect him of DUI.* I don't suspect any kind of Signal 1, so –
>
> (Unintelligible) make sure he's aware of change of hats, but (unintelligible), if you don't read him Miranda basically –
>
> Make sure you do change of hats.
>
> And that's, when do we officially complete this so we do the change

of hats?

Make sure, go to the hospital, he gets treatment, at the hospital (unintelligible) we don't have enough (unintelligible) to bring him back to the station. So if he says I don't want to talk to you, we're done.

(A-111-113) (emphasis added).

Mr. Rossman acknowledged that "[t]here were at least three ambulances" at the scene of the accident. (A-103). The first ambulance arrived at the scene approximately ten minutes after the accident was reported (i.e., the initial call reporting the accident occurred at 2:34 a.m. and an ambulance arrived at the scene at 2:44 a.m.). (A-159, A-162).

On cross-examination, Mr. Rossman stated that during the entire time that he interacted with the Petitioner at the scene of the accident, the Petitioner was cooperative, and Mr. Rossman said that he had no concerns for his safety during the time that he interacted with the Petitioner (i.e., he did not even "pat down" the Petitioner to search for weapons). (A-115-116).[4] Mr. Rossman testified that he did not observe any signs indicating that the Petitioner was impaired. (A-116-117). Mr. Rossman stated that the officers *delayed* transporting the Petitioner to the hospital in an effort to obtain a blood draw from him at the scene. (A-119-120). Mr. Rossman testified that the code "10-15" means an arrest. (A-121). Mr. Rossman testified that the Petitioner was in handcuffs from the point in time he arrived at the scene (i.e, when handcuffs were placed on the Petitioner) until he was transported to the hospital. (A-132).

[4] The record establishes that there were several officers at the scene. (A-70).

Michael Kelly. Mr. Kelly, a sergeant with the Palmetto Police Department, testified that during the early morning hours of April 1, 2015, he responded to the scene of an accident. (A-136). Sergeant Kelly stated that when he arrived at the scene, he came into contact with the Petitioner – who was approximately sixty feet from the SUV that hit a tree – and he said that the Petitioner was placed in handcuffs. (A-138-139).

Chris Metzger. Mr. Metzger, a corporal with the Palmetto Police Department, testified that during the early morning hours of April 1, 2015, he responded to the scene of an accident. (A-152). Corporal Metzger stated that he did not tell anybody to arrest the Petitioner on April 1, 2015. (A-153).

Randi Crawford. Ms. Crawford stated that she works in the dispatch unit of the Palmetto Police Department, and she said that she was working on the morning of April 1, 2015. (A-158). Ms. Crawford stated that Defendant's Exhibit B is a copy of the "CAD Report" from the morning of April 1, 2015. (A-158).

H. REASON FOR GRANTING THE WRIT

The question presented is important.

In *Florida v. Royer*, 460 U.S. 491, 500 (1983), the Court held that "an investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop."[5] In *Rodriguez v. United States*, 575 U.S. 348, 353 (2015), the Court readdressed *Royer* and considered "the question [of] whether police routinely may extend an otherwise-completed traffic stop, absent reasonable suspicion, in order to conduct a dog sniff" and the Court again confirmed that a police stop exceeding the time needed to handle the matter for which a stop is made violates the Fourth Amendment's proscription of unreasonable seizures. The Petitioner requests the Court to again address its holding in *Royer* and answer the question of whether the police may extend the detention of a driver involved in an accident resulting in the death of another person in order to wait for a "blood draw kit" to arrive at the scene so that the suspect driver's blood can be drawn for purposes of determining whether the driver was intoxicated at the time of accident. As explained below, this is an important question that has the potential to impact numerous criminal cases nationwide.

The facts in this case are not in dispute. The accident in this case was reported at 2:34 a.m. on April 1, 2015. The Petitioner, who was identified as the driver of the vehicle, was detained (i.e., placed in handcuffs and put in the back of a marked patrol car) when law enforcement officers arrived at the scene. When he was detained, law enforcement officers acknowledged that the Petitioner needed to be transported to the

[5] *See also United States v. Sharpe*, 470 U.S. 675, 685 (1985).

hospital for medical treatment (and when the Petitioner was subsequently transported by ambulance to the hospital, he underwent emergency surgery). At least three ambulances arrived at the scene, and the first ambulance arrived approximately ten minutes after the accident was reported. The victims of the accident were pronounced dead shortly after first responders arrived at the scene. By their own admission, although the Petitioner had been detained, he was *not* placed under arrest (because law enforcement officers lacked probable cause to establish that the Petitioner had committed a crime).[6] Nevertheless, the officers wanted to obtain a blood draw from the Petitioner to determine if he was intoxicated. But unfortunately for the officers, the "blood draw kit" that was in their possession at the scene had expired in 2010 – *five years prior to the accident.*[7] However, rather than transporting the Petitioner to the hospital for his required medical treatment, *the officers kept the Petitioner at the scene of the accident while the officers waited for a new "blood draw kit" to be brought to the scene.* As specifically found by the trial court, "[a]pproximately twenty-eight minutes after being dispatched, EMS informed Officer Rossman that the Defendant's knee is somewhat deformed [and] that he would need stitches." (A-27). Yet, "[a]pproximately 56 minutes after dispatch, a new blood draw kit arrives on scene." (A-30). Thus, the Petitioner's detention at the scene (and delay in rendering him needed medical

[6] Mr. Rossman specifically stated during the September 23, 2016, hearing that he did not observe *any signs* indicating that the Petitioner was impaired. (A-23-24).

[7] The expired "blood draw kit" had been located/stored in one of officer's patrol cars.

treatment at the hospital) *was extended by twenty-eight minutes.*

In order for the detention to be a lawful *Terry*[8] detention, the officers could only detain the Petitioner "for the purpose of ascertaining the identity of the person temporarily detained and the circumstances surrounding the person's presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense" and said detention could not last "longer than is reasonably necessary" to effect these purposes. § 901.151, Fla. Stat. Once the purpose of an initial detention has been satisfied, an officer no longer has any legal ground to continue to detain a suspect absent a reasonable, articulable suspicion of illegal activity. *See Royer*, 460 U.S. at 500. In the instant case, neither the purpose nor the duration of the detention fell within the lawful scope of *Royer*. After the Petitioner had been identified, there was no lawful basis to keep him handcuffed and held in the back of the patrol car at the scene – especially since (1) the record is unrefuted that no officer observed any signs indicating that the Petitioner was impaired and (2) the Petitioner needed medical treatment at the hospital and an ambulance was present and ready to transport him to the hospital.

The *sole basis* for extending the detention in this case was so that law enforcement officers could wait for an unexpired "blood draw kit" to be brought to the scene. Between the twenty-eight minute mark and the fifty-six minute mark (i.e, the time while officers waited for the new "blood draw kit" to arrive at the scene of the

[8] *Terry v. Ohio*, 392 U.S. 1 (1968).

accident), there was no valid investigative purpose in delaying the Petitioner's transport to the hospital other than waiting for the new blood kit to arrive at the scene of the accident. The Petitioner therefore prays the Court to grant the instant petition in order to address the question of whether the police may extend the detention of a driver involved in an accident resulting in the death of another in order to wait for a "blood draw kit" to arrive at the scene so that the suspect driver's blood can be drawn for purposes of determining whether the driver was intoxicated at the time of accident.[9]

By granting the petition for writ of certiorari in the instant case, the Court will have the opportunity to consider the important question presented in this case. As

---

[9] The Petitioner's alleged consent to the blood draw is irrelevant to the determination of whether his Fourth Amendment rights were violated by the prolonged detention. Although the law enforcement officers purportedly relied upon the consent to obtain the blood sample, any consent for the blood sample was not voluntary and was the fruit of the unlawful detention of the Petitioner. Courts regularly reverse denials of motions to suppress in cases of illegal conduct on the part of law enforcement authorities, notwithstanding putative consent thereafter. *See, e.g.*, *Norman v. State*, 379 So. 2d 643, 646-47 (Fla. 1980) ("[W]hen consent is obtained after illegal police activity such as an illegal search or arrest, the unlawful police action presumptively taints and renders involuntary any consent to search"); *Faulkner v. State*, 834 So. 2d 400, 403 (Fla. 2d DCA 2003) ("Here, the State proved no such break in the chain of illegality that began when the deputy ordered Faulkner to stay inside the car."). Most notably, in the suppression order, the trial court specifically found that if the Petitioner's detention was illegal, then his consent was invalid:

> [T]he Court finds that the State failed to establish Defendant's consent to the blood draw by clear and convincing evidence. *Accordingly, if the Court is in error by concluding that Defendant's detention was legal and instead should have determined that his detention was illegal, the State's failure to establish consent by clear and convincing evidence would require the blood draw to be suppressed.*

(A-31) (emphasis added).

stated above, the Fourth Amendment issue in this case has the potential to impact numerous criminal cases nationwide. The Petitioner prays the Court to exercise its discretion to hear this important matter.

I. CONCLUSION

The Petitioner requests the Court to grant his petition for writ of certiorari.

Respectfully Submitted,

/s/ Michael Ufferman

MICHAEL UFFERMAN
Michael Ufferman Law Firm, P.A.
2022-1 Raymond Diehl Road
Tallahassee, Florida 32308
(850) 386-2345/fax (850) 224-2340
FL Bar No. 114227
Email: ufferman@uffermanlaw.com

COUNSEL FOR THE PETITIONER