No. ____

In the
Supreme Court of the United States

DEQUANTEY MAURICE WILLIAMS,

PETITIONER,

v.

UNITED STATES OF AMERICA,

RESPONDENT.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Whether the United States District Court For The Middle District Of North Carolina Erred in Denying Mr. Williams's Motion to Supress evidence related to the State's stop and search of his vehicle?

Whether law enforcement's search of Mr. Williams's vehicle violated his Fourth Amendment rights?

Whether the plain view doctrine properly justified law enforcement's search of Mr. Williams vehicle?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings before this court are as follows:

Dequantey Maurice Williams.

United States Of America.

LIST OF PROCEEDINGS

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Trial Court Case No. 1:18-cr-00393
UNITED STATES OF AMERICA v. DEQUANTEY MAURICE WILLIAMS
Motion to Supress DENIED 1/7/2019 Plea Agreement Entered . 2/21/2020. District Court's Opinion is Not Reported.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Case No. 20-04344
UNITED STATES OF AMERICA v. DEQUANTEY MAURICE WILLIAMS
Judgment Dated 1/14/2022 District Court's Judgment AFFIRMED. Court of Appeals Per Curiam Opinion is Reported at *United States v. Williams*, No. 20-4344, 2022 WL 134846 (4th Cir. Jan. 14, 2022) and reproduced in the attached Appendix.

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PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully requests that a Writ of Certiorari be issued to review the United States District Court For The Middle District Of North Carolina's denial of his Motion to Supress, which was affirmed by the United States Court Of Appeals For The Fourth Circuit.

OPINIONS BELOW

The January 7, 2019, order dismissing Petitioner Williams's Motion to Supress Evidence from the United States District Court For The Middle District Of North Carolina, is not reported. (Pet. App. 9a).

The January 14, 2022, decision from the United States Court Of Appeals For The Fourth Circuit is reproduced in the Appendix. (Pet. App. 1a-8a). This decision was not published.

BASIS FOR JURISDICTION IN THIS COURT

The United States Court Of Appeals For The Fourth Circuit entered judgment on January 14, 2021. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides:

> 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.

U.S. Const. amend. IV.

STATUTORY PROVISIONS INVOLVED

Title 18 U.S.C.§ 922(g)(1)-(2), (9) provides:

It shall be unlawful for any person--

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C.§ 922(g) (1)-(2), (9).

STATEMENT OF THE CASE

A. Concise Statement of Facts Pertinent to the Questions Presented.

The Incident In Question

On April 1, 2018, officers with the Greensboro Police Department's Street Crimes Unit conducted a traffic stop involving Dequantey Maurice Williams near the intersection of Benbow Road and Sullivan Street in Greensboro, North Carolina. (Pet. App. 29a). Petitioner Williams drove the stopped car, and there were two passengers travelling with him. (Pet. App. 29a). Petitioner Williams had been pulled over regarding a potential traffic violating stemming from failing to completely stop at a red light. (Pet. App. 3a). The State alleged that one of the passengers had a warrant for his arrest, so the officers removed the passenger from the car and placed him under arrest. (Pet. App. 30a). That individual told officers he was in possession of a gun. (30a). At that time, the officers decided to "frisk" the car, noting the erratic and furtive movements of the backseat passenger. (Pet. App. 30a). The officers ultimately removed the backseat passenger from the car, and the passenger attempted to flee. (Pet. App. 30a). A gun fell from his possession as he ran. (Pet. App. 30a).

During a subsequent search of the car and its trunk, officers found a Diamondback 5.56 caliber assault-type rifle. (Pet. App. 30a). The officers also found ammunition for this rifle in the car's trunk. (Pet. App. 30a). The State's investigation into the purchase of the Diamondback rifle showed that Petitioner Williams was present with co-defendant

Mikayla McCargo at the Quick Cash Pawn located at 2707 South Elm-Eugene Street in Greensboro, when she purchased the firearm. (Pet. App. 30a).

Petitioner Williams had been convicted of a crime punishable by imprisonment for a term exceeding one year within the meaning of 18 U.S.C. §§ 921(a)(20) and 922(g)(1). He had been sentenced to 153 months in prison for felony possession of a firearm in the United States District Court for the Middle District of North Carolina. (Pet. App. 30a). That conviction had not been expunged at the time of the incident in question. (Pet. App. 30a). A Special Agent's interstate nexus analysis of the Diamondback rifle determined that the recovered firearm was not manufactured in the state of North Carolina. (Pet. App. 31a).

B. Procedural History

On October 29, 2018, a federal grand jury issued a five-count Indictment against Petitioner Williams and his co-defendant. (Pet. App. 12a). Petitioner was tried and convicted on all charges on March 8, 2013. (Pet. App. 30a).

Petitioner Williams filed a suppression motion regarding the April 1, 2018 seizure of the Diamondback rifle and .223 caliber ammunition. On December 20, 2018, the District Court held a suppression hearing and denied the motion but requested supplemental briefing. After receiving the supplemental briefing, on January 7, 2019, the District Court entered an order denying the suppression motion. (Pet. App. 9a).

Once the District Court denied his suppression motion, Petitioner Williams and the Government entered into a Plea Agreement on January 7, 2019. Under the Plea Agreement, Petitioner Williams agreed to plead guilty to Count Four, *i.e.*, illegally possessing the Diamondback rifle on April 1, 2018. (Pet. App. 2a). Judge Eagles colloquied Mr. Williams regarding the Plea Agreement and accepted his guilty plea by finding it knowing and voluntary. On May 23, 2019, Judge Eagles sentenced Mr. Williams to 120-months, notably, Judge Eagles refusing to apply the Armed Career Criminal Act ("ACCA") because she concluded Mr. Williams's common law robbery conviction in case did not constitute a violent felony under the ACCA. (Pet. App. 8a)

On June 26, 2020, Judge Eagles entered judgment. (Pet. App. 12a). Thereafter, Mr. Williams filed a timely notice of appeal. The appeal was submitted to the Fourth Circuit on October 25, 2021. (Pet. App. 1a). On January 14, 2022, the Fourth Circuit affirmed the District Court's judgment dimissing Petitioner Williams Motion to Dismiss on the grounds that the State performed a proper *Terry* stop. *Terry v. Ohio*, 392 U.S. 1, 21 (1968). (Pet. App. 1a).

This Petition for Writ of Certiorari followed.

REASONS TO GRANT THIS PETITION

I. The District Court Erred In Dismissing Petitioner Williams's Motion to Suppress Because The State Did Not Establish That The Front-Seat Passenger Actually Had An Arrest Warrant Before Conducting The Search.[1]

The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *Whren v. United States*, 517 U.S. 806, 809 (1996). For a stop-and-frisk search to be proper under the Fourth Amendment, the State must establish (1) that "the investigatory stop [was] lawful" and (2) the searching officer must "reasonably suspect" that the person stopped is armed and dangerous. *Arizona v. Johnson*, 555 U.S. 323, 326–27 (2009); *see also United States v. Robinson*, 846 F.3d 694, 696 (4th Cir. 2017) (concluding that "an officer who makes a lawful traffic stop and who has a reasonable suspicion that one of the automobile's occupants is armed *may frisk that individual* for the officer's protection and the safety of everyone on the scene") (emphasis added). "The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men

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[1] Petitioner Williams also requests any relief for ineffective assistance of appellate counsel regarding the appeal of his Motion to Supress regarding prejudice he may have suffered as a result of failures to appeal the Motion to Supress previously.

draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime." *Mincey v. Arizona*, 437 U.S. 385, 395 (1978); *Baysden v. United States*, 271 F.2d 325, 328 (4th Cir. 1959) ("Any assumption that evidence sufficient to support a magistrate's disinterested determination to issue a search warrant will justify the officers in making a search without a warrant would reduce the Amendment to a nullity.").

This Court has analyzed the "reasonableness" of the State's search to depend "on a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers." *See Rodriguez v. United States*, 575 U.S. 348, 349 (2015); *Florida v. J.L.,* 529 U.S. 266, 272 (2000); *cf. Terry*, 392 U.S. at 21–22 ("it is imperative that the facts be judged against an objective standard: would the facts available to the officer at the moment of the seizure or the search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate?"). For instance, in *Rodriguez,* this Court found that a search must stay within its "mission," which is to address the traffic violation that warranted the stop, and attend to related safety concerns. 575 U.S. at 349 (citing *Illinois v. Caballes*, 543 U.S. 405, 407 (2005)). The officer in *Rodriguez* had stopped the defendant for driving on a highway shoulder, a violation of Nebraska law, and found methamphetamines after conducting a dog sniff, prolonguing the search for "eight to ten minutes."

Rodriguez, 575 U.S. at 349. This Court held that the officer's search after the stop violated the Fourth Amendment. *See id.* at 357. This Court reasoned that the "a general interest in criminal enforcement," and the "government's officer safety interest" stems from the mission of the stop itself and as a result, the search needed to stay within its mission to be lawful under the Fourth Amendment. *Id.* at 355. The court opined that "such inquiries involve checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance." *Id.* As the "dog sniff" was not an "ordinary incident of a traffic stop," the officer's search violated the Fourth Amendment. *Id.*

Likewise, in *J.L.*, this Court addressed the application of the Fourth Amendment to searches where the officers had already obtained knowledge regarding the potential for finding an unlawfully owned firearm in the defendant's possession. *See J.L.*, 529 U.S. at 273. The officer in *J.L.* had conducted the search of the defendant at a bus stop on information received from an anonymous informant regarding the defendant's possession of a gun. *See id.* at 268. This Court found this search violated the Fourth Amendment. *See id.* This Court reasoned that if a Fourth Amendment exception was made regarding searches for firearms, derived from searches for narcotics, that the exception would "swallow the rule" allowing roving searches to be conducted for firearms with no "indicia of reliability." *Id.*; *cf. Richards v. Wisconsin,* 520 U.S. 385, 393–394 (1997) (rejecting a

per se exception to the "knock and announce" rule for narcotics cases partly because "the reasons for creating an exception in one category [of Fourth Amendment cases] can, relatively easily, be applied to others," thus allowing the exception to swallow the rule).

Law enforcement's search of Petitioner Williams's car violated the Fourth Amendment because the search extended beyond the "mission" of a normal traffic stop and the knowledge law enforcement had regarding any potential wrongdoing before the stop regarded one of Petitioner Williams's passengers who law enforcement did not know if they had an active arrest warrant before commencing the stop. Like the search in *Rodriguez*, the search of Petitioner Williams car was tangential to why he had been pulled over, which involved the "running" of a red light. Law enforcement's stop should have been limited to addressing the traffic violation. Yet, law enforcement took the opportunity this stop provided to question one of Petitioner Williams's passengers, determine if *he* had a warrant, and notably, the passenger that fled did not have a warrant. In the Fourth Circuit, law enforcement's search of Mr. Williams's passenger would have been justified *because law enforcement was reasonable suspicious that the passenger was armed. See Robinson*, 846 F.3d at 696. Law enforcement's suspicion did not include Mr. Williams before the search started. Only after dealing with the passenger, did the officers turn their attention to Mr. Williams and their request to search his vehicle. This "second search" after searching the

passenger was far beyond the mission of the first search and was purely related to finding contraband, not to enforcing road safety rules. *Rodriguez*, 575 U.S. at 349. Thus, as the search of the vehicle was secondary to the traffic stop's mission, it violated Petitioner's Fourth Amendment right to be secure in his person.

Furthermore, the heart of the State's justification for the overall search was the alleged knowledge of a warrant, that had to be confirmed after the search began, that one of Mr. Williams's passengers had a warrant for his arrest. Law enforcement had no reason to suspect Petitioner Willliams of wrongdoing until they found a manual related to firearm in question within his car's glovebox. Similar to the search in *J.L.*, law enforcement relied on suspicion regarding Petitioner Williams's passenger to extend their search to a search of his vehicle without individualized suspicion that Mr. Williams had done anything wrong besides failing to completely stop at a red light. Law enforcement's search of Petitioner Williams's car glovebox found a firearm *manual*, not the gun itself and this piece of evidence alone could not provide a "indicia of reliability" that the firearm was in the car, that Mr. Williams was the one who possessed it, or that another passenger had not left it in the car. *J.L.*, 529 U.S. at 273. Instead, it took a continued search, within the trunk of the car, to find the firearm that corresponded to the manual. As the "touchpoint" of Fourth Amendment is reasonableness, the State bears the burden to show that it was reasonable to go

from finding the gun manual in the glovebox to justifying the search through the rest of the vehicle. *Terry*, 392 U.S. at 21–22 If this search is reasonable, then it permits law enforcement to use *tangential* evidence, a mere manual, instead of ammunition, a gun box, something more related to the actual presence of the gun, to justify the continued search. This would allow law enforcement to use receipts, promotional materials, or even empty boxes to be the justification for a sweeping search of a person's vehicle without any form of objective justification. Thus, if law enforcement's search of Mr. Williams's is allowed to stand, it would serve to swallow much of the objectivity requirements for Fourth Amendment search. Accordingly, the Fourth Circuit erred in allowing the District Court's findings to stand and Petitioner Williams's conviction should be reversed.

II. The Fourth Circuit Erroneously Relies On The Plain View Doctrine To Justify Law Enforcement's Search Because The Search Unlawfully Extended Beyond The Scope Of The *Terry* Stop.

Under the Fourth Amendment, the search of an automobile's passenger compartment is permissible if it is limited to those areas in which a weapon may be placed or hidden, if the police officer possesses a reasonable belief based on specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant the officer to believe that the suspect is dangerous and the suspect may gain immediate control of weapons, and

is conducted subject to a legitimate *Terry* stop. *See Michigan v. Long*, 463 U.S. 1032, 1046 (1983). These stops may extend beyond the scope of a *Terry* stop, but may extend only to dispel "the reasonable suspicion" of danger and the officer must possess a "reasonable belief based on specific and articulable facts" that the area harbors a danger to officers at the scene. *Maryland v. Buie*, 494 U.S. 325, 337 (1990).

In the Fourth Circuit, warrantless seizures of incriminating evidence is permissible under the plain view doctrine when: "(1) the officer is lawfully in a place from which the object may be plainly viewed; (2) the officer has a lawful right of access to the object itself; and (3) the object's incriminating character is immediately apparent." *United States v. Jackson*, 131 F.3d 1105, 1109 (4th Cir. 1997) (citing *Horton v. California*, 496 U.S. 128, 136-37 (1990)). However, "the search of a vehicle incident to a recent occupant's arrest is justified "only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search" or when "it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle." *Arizona v. Gant*, 556 U.S. 332, 351 (2009); *see also United States v. Rumley*, 588 F.3d 202, 205 (4th Cir. 2009) (citing *Arizona v. Gant*, 556 U.S. 332, 351 (2009)). Evidence has an "incriminating character" if it is "immediately apparent." *Horton v. California*, 496 U.S. 128, 136–137 (1990); *Texas v. Brown*, 460 U.S. 730, 739 (1983) (plurality opinion). However, law enforcement lacks probable cause "to believe that an object in plain view is contraband without conducting

some further search of the object—i.e., if "its incriminating character [is not] 'immediately apparent" preventing the plain-view doctrine from justifying its seizure. *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993); *Arizona v. Hicks*, 480 U.S. 321, 326–27 (1987) ("We now hold that probable cause is required. To say otherwise would be to cut the "plain view" doctrine loose from its theoretical and practical moorings.").

The plain view doctrine could not justify the State's search because it was beyond the *Terry* stop's scope and because the manual and receipt found in the glovebox were not of an "incriminating character." *See Buie*, 494 U.S. at 337; *Gant*, 556 U.S. at 351. *Terry* stops may extend only to dispel "the reasonable suspicion" of danger and the officer must possess a "reasonable belief based on specific and articulable facts." *Long*, 463 U.S. at 1046. The danger to the officers at the scene was possed by Petitioner Williams's passenger, who had possession of a weapon that fell when he attempted to escape the scene. The passenger had been apprehended at the time officers had begun to search Petitioner Williams's car.. Thus, the danger he posed to the officers at the time of the search was addressed, eliminating the danger he posed. Before conducting the search, officers had been tracking Petitioner Williams's passenger, not Petitioner Williams. Accordingly, the search of the glovebox was an unlawful extension of the *Terry* stop because law enforcement was not searching for what the officers reasonably believed to be a danger to them.

Furthermore, the items seized, the gun manual and receipt could not have had a "immediately apparent" "incriminating character" to law enforcement because law enforcement had to determine if the gun was in the car, who it belonged to, and who possessed it, before determing its "incriminating character." It was not a crime for Petitioner Williams co-defendant to own or purchase the gun. From purely reviewing the manual and the receipt, it could not be *immediately* apparent that Petitioner Williams had done anything criminal as the receipt showed that the co-defendant owned it, not him. It took further investigation for law enforcement to determine that Petitioner Williams had indeed possed the gun. Thus, as the plain view doctrine requires the evidence to be *immediately apparent* to law enforcement to be of a criminal nature, the Fourth Circuit erred in applying the plain view doctrine.

CONCLUSION

For the foregoing reasons, this Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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