

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. 21-16

IN THE SUPREME COURT OF THE UNITED STATES

Petitioner

ROBERT PAUL M. CLEDERA

v.

Respondents

UNITED STATES, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

ROBERT PAUL M. CLEDERA
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UNITED STATES, ET AL.
See List of Parties

QUESTIONS PRESENTED

In *Carpenter v United States*, No. 16-402, 585 U. S. ___ (2018), this court held that the Government's acquisition of Carpenters cell-site records was a Fourth Amendment search.

In *Riley v. California*, 573 U.S. 373 (2014), this court held that police generally may not, without a warrant search digital information on a cell phone seized from an individual who has been arrested.

In *Katz v United States*, 389 U.S. 347 (1967), this court held that The Fourth Amendment's protection from unreasonable search and seizure extends to any area where a person expects has a "reasonable expectation of privacy."

In *Florida v Jardines*, 11-564, 569 U.S. 1 (2013) this court held that the Government's use of a trained police dog to investigate the home and its immediate surroundings, is a search within the meaning of the Fourth Amendment.

In *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), this court has stated that the Constitution must always take precedence in any conflict between it and a law passed by Congress.

What constitutes a Fourth Amendment violation? Does the absence of a crime or arrest void the violation of a civil right?

1 Question Presented is:
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5 Does a Petitioner need to be charged with a crime and arrested for him to
6 have *Locus Standi* when petitioner has satisfied the three requirements of Standing
7 when he suffered direct injury when he lost his job and suffered emotional distress
8 thru actions of respondents, and where this court has already addressed the issue of
9 redressability in *Bivens*, 42 U.S.C. § 1983, and 42 U.S.C. § 1985.
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LIST OF PARTIES

United States; Robert M. Wilkinson, Acting U.S. Attorney General; James McHenry, Executive Office for Immigration Review; Kevin K. McAleenan, Acting Secretary, U.S. Department of Homeland Security; Steven McCraw, Texas Department of Public Safety; Gary C. Thomas, Dallas Area Rapid Transit; U. Renee Hall, Dallas Police Department, Dallas, Texas; Dominique Artis, Dallas Fire Department, Dallas, Texas; Steve Dye, Grand Prairie Police Department, Grand Prairie, Texas; Robert Fite, Grand Prairie Fire Department, Grand Prairie, Texas; Will Johnson, Arlington Police Department, Arlington, Texas; Tracy Aaron, Mansfield Police Department, Mansfield, Texas; Brian Manley, Austin Police Department, Austin, Texas; Charles Edge, Ellis County Sheriff; Ryan Holt, Waco Police Department, Waco, Texas; Gregory Fellows, Menifee Police Department, Menifee, California; HomePro Operating, L.L.C.; Apple, Incorporated; The Walt Disney Company; Best Buy Company, Incorporated; Target Corporation; Walmart, Incorporated; Home Depot Product Authority, L.L.C.; RING (Amazon.com, Incorporated); ARLO (Arlo Technologies, Incorporated); LG Electronics, USA Incorporated; Verizon Communications, Incorporated; City of Grand Prairie; City of Mansfield; Menifee Police Department,

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1 **Constitutional Provisions:**

2 1st Amendment

4th Amendment

5Th Amendment

7 **Statutes:**

8 5 U.S.C. Title 75 ----- 14

9 Privacy Act of 1974 ----- 12

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PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully petitions for a writ of certiorari to review the judgement of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The memorandum opinion and order of the court of appeals, App. A are not reported. The opinion of the district court App. B-E is not reported.

JURISDICTIONAL STATEMENT

The judgment of the court of appeals was entered on February 5, 2021. App. A. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

CONSTITUTIONAL AND STATUTORY

PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. Constitution, Amend. I.

The Fourth Amendment to the United States constitution provides that " 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."

42 U.S.C. § 1983 provides, in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities

1 secured by the Constitution and laws, shall be liable to the party injured in an
2 action at law, suit in equity, or other proper proceeding for redress. . . .
3
4

5 42 USC § 1985 provides in part:
6
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8 Is a federal cause of action for recovery when there is a conspiracy to
9 deprive one of civil rights. “ The essential elements of a section 1985 claim is
10 when there a conspiracy to deprive one of his civil rights, equal protection and
11 immunities. It also an act in furtherance of the conspiracy, obstruction of justice
12 and intimidation under color of law.
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16 Bivens Actions provides in part:
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19 Individuals have an *implied cause of action* against federal government
20 officials who have violated their constitutional rights.
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4 **STATEMENTS OF THE CASE**

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8 Petitioner is a U.S. Army Veteran with honorable discharge, and a member
9 of the protected class due to his Age, National Origin, and Race. His 4th, 5th, 6th,
10 and 14th Amendment rights have been violated by unknown named agents (*Bivens*
11 *action*), local law enforcement, (*Section 1983*), private individuals, and private
12 businesses in a conspiracy, *Texas Penal Code 15.02*, to violate and deny his basic
13 civil rights as encompassed in the Bill of Rights, Equal Protection Laws, Privacy
14 Act of 1974, Electronic Communications Privacy Act, and Title VII of the Civil
15 Rights Act of 1964.

16 The petitioner has also filed a separate timely appeal, with counsel regarding
17 the adverse action suffered by Appellant, with the Merit Systems Protection Board
18 (MSPB). *Robert M. Cledera v Department of Justice*. Dockett: DA-0752-21-0013-1-1.

19
20 The petitioner has also filed a Complaint of Judicial Misconduct or
21
22 Disability with the United States Court of Federal Claims. Case No. CL-20-90238
23 on October 1, 2020.

24 Petitioner filed a lawsuit on August 21, 2019, against the United States and
25 30 other individuals and private entities for conspiring to violate the Plaintiff's 14th
26 Amendment rights to be free to travel, *Heart of Atlanta Motel v U.S., U.S. v Guest*,

1 United States v Jones. His 4th Amendments rights to be secure in his person,
2 houses, papers, and effects. Carpenter v United States, Katz. Against unreasonable
3 search and seizures. Riley v California: Florida v Jardines, no warrants shall issue
4 but upon probable cause supported by oath or affirmation describing the place to
5 be searched and persons or things to be seized. Klayman v Obama.

6
7 Long term monitoring as in Carpenter. His 5th amendment right to due
8 process. Protection from vague laws. Rumsfeld v Padilla. His 6th Amendment
9
10 rights to a speedy trial and to face his accusers.

11
12 After filing the lawsuit on August 21, 2019, petitioner mistakenly brought a
13 magazine and ammunition into the Earl Cabell Federal Building in Dallas, TX on
14 September 11, 2019. Petitioner spoke with the First Officer and admitted having
15 brought the magazine. He was instructed to return the item to his vehicle. He
16 walked out of the premises to return the magazine and ammunition to his vehicle.
17
18 Before he can fully comply with the first order, he was called back in by another
19 DHS officer then charged with bringing in the prohibited item.

20
21 TX HB 121. Is a defense from prosecution for Concealed Carry Weapon
22 Holders or License to Carry licensees.

23
24 Petitioner attended his first hearing but was continued due to non-
25 appearance of the Government witness. On the second hearing date, still no
26 witness but U.S. Attorney told him he could just pay the fine. Appellant paid the
27
28

1 fine, his Agency, the Executive Office for Immigration Review (EOIR) revoked
2 his building access without proper notification. The incident was cited on multiple
3 occasions to justify 3 suspensions, and 1 suspension with-out pay. The court
4 administrator has declared on multiple occasions that paying the fine was an
5 admittance of guilt and was cited as one of the reasons to justify my termination
6 from federal employment. petitioner from here on was the subject of retaliatory
7 prosecution and obstruction of justice 42 USC §1985 by the DHS, and his agency
8 (EOIR), Hartman v Moore. This led to his termination for cause on September 11,
9 2020. 5 U.S.C. chapter 75.

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15 Petitioner transferred to the Dallas Office of the Executive Office for
16 Immigration Review from Honolulu, HI, after filing an Equal Employment
17 Opportunity complaint against the Honolulu, HI branch of the Executive Office of
18 Immigration Review.

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20 From his arrival on June 12, 2017, until his termination from federal
21 employment on September 10, 2020, the Appellant experienced acts of racial
22 profiling, harassment (Texas Penal Code 42.07), intimidation (Texas Penal Code
23 42.072), negligence, intentional infliction of emotional distress, and retaliation.

24
25 Beginning in September 2018 after moving to his new home, petitioner has
26 noticed unusual activity at his new home, enough to trigger security concerns. The
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1 unusual activity consisted of unmarked white vans showing up and lingering in
2 front of his home when petitioner leaves his home around 5:30 am in the morning
3 as he prepares to leave for work or drop his son at his childcare provider.

4
5 On other times, cars and unmarked white vans traveling at unsafe speeds for
6 the area will block his vehicle as he drives out of his driveway. All this was caught
7 of video camera from his home and from dash cams on his vehicle.

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10
11 Petitioner has noticed surveillance activity to his person when he takes the
12 train to and from work. He noticed Police following him and blocking him at
13 intersections on public roads and following him about his daily life going Walmart,
14 Target, Home Depot, BestBuy and Arlington Parks Mall and other public places.

15
16 December 18, 2018. Petitioner and family went on a vacation to Disney
17 World. He notices the same surveillance activity inside Walt Disney parks. People
18 following him and his family trying to enjoy their vacation but gave him anxiety
19 and was now feeling emotionally distressed, this reflected on his family as
20 petitioner was easily frustrated and stressed out.

21
22
23 On April 11, 2019, Petitioner has found an empty shell casing inside his
24 vehicles center console.

25
26 Appellant has reported the incidents to his Agency, Department of
27 Homeland Security (DHS) and Texas Department of Safety (TXDPS) regarding

1 these concerning activities to his person. When appellant did not get a response
2 from the Texas Department of Safety, he wrote a letter to the Office of the
3 Governor of Texas, His Honorable G. Abbott.

4
5 Appellant received a letter of assistance from the Governor on March 6,
6 2019, and the contact person's information was forwarded to DHS.
7

8 Both Department of Homeland Security and the Texas Department of Public
9 Safety, failed to act and has not communicated any information to Appellant since
10 then.
11

12 This negligence and omission is the direct consequence of all injuries
13 suffered by Appellant.
14

15 On July 31, 2019, portioner followed Dallas Fire Engine 4 and confirmed
16 that Dallas Fire Station 4 was using State equipment to harass petitioner when his
17 dash camera recorded Dallas Fire Engine 4 use its sirens and horns indicating an
18 emergency to only drive around the block and return to the fire house.
19

20 Petitioner will state on the record, that he has been subjected to harassment
21 and emotional distress by Fire Departments from Dallas, Arlington, Mansfield, and
22 Grand Prairie, with the non-emergency use of official state fire fighting vehicles.
23

24
25 The following day August 1, 2019, petitioner and family drove to Austin,
26 TX to finalize the sale of their home. On the way to Austin, TX, petitioner's
27 vehicle was sideswiped by an 18-wheeler truck when the trailer swerved into his
28

1 lane as he was on the exited into a rest stop on I-35 S. On the way back to Dallas,
2 TX, an Amazon 18-wheeler truck tried to overtake his vehicle as he exited a rest
3 area along I-35 N. Petitioner and his family barely avoided the collision when he
4 sped up triggering a reaction from his son.
5

6 *August 21, 2019, Petitioner filed a civil lawsuit against the United States, et*
7 *al. in the United States District Court for the Northern District of Texas under case*
8 *no. 3:19-CV-1997. On August 7, 2020, The District court dismissed my case with*
9 *prejudice.*

10 On September 11, 2019, I mistakenly brought a magazine to work. Upon
11 discovery at the security counter, I advised the security personnel that I forgot to
12 leave my magazine in my vehicle. He verified my person and advised me to just
13 return said item to my car. I proceeded to leave and was already in the parking lot
14 across the federal building when another officer called me back in. I was detained
15 at this point and my belongings inspected without consent. I was charged with
16 possession of a prohibited item.
17

18 *September 17, 2019, petitioner filed a timely appeal with the United States*
19 *Court of Appeals for the Fifth Circuit under case no. 20-10914. On February 5,*
20 *2021, The Court of Appeals for the Fifth Circuit affirmed the decision of the lower*
21 *court.*

1 A court date was set on November 11, 2019. Government witness did not
2 appear, case was reset one month later on December 5, 2020. At this hearing,
3 Judge did not appear, and I was advised by the US Attorney office that I had the
4 option of just paying a fine. I paid the fine and case was dismissed.
5

6 On February 6, 2020, I was placed on administrative leave and a derogatory
7 report placed in my personal records for bringing in the gun magazine on
8 September 11, 2019.
9

10 On March 25, 2020, I was issued letter of proposed suspension without pay.
11 I was placed on 10-day suspension without pay and placed on admin leave. On
12 April 9, 2020, the suspension was finalized, and a second derogatory record placed
13 in my personnel files for exhibiting Covid-19 symptoms. I was tested negative the
14 previous week after I had checked myself in for Covid-19 testing after having
15 allergies.
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18 May 14, 2020, I was almost run over by a Nestle delivery truck and A chevy
19 SUV as I was crossing Jackson St. as I crossed from the parking lot to the federal
20 building to go to work. I reported this to my superiors and DHS having the same
21 incident of using large vehicles to threaten petitioner with bodily harm. I requested
22 the Department of Homeland Security for video footage of the incident and a
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1 statement from a Security officer who witnessed the whole incident. I sent out a
2 series of emails regarding this.
3

4 The Department of Homeland security and the Executive Office for
5 Immigration Review called me to a meeting on June 3, 2020, and in that meeting
6 they denied my petition to get a footage stating that the cameras were not working
7 at that time. My agency, the EOIR, reprimanded me for using official email. DHS
8 also denied my request to get a statement from the officer/witness.
9

10
11 On July 30, 2020, petitioner was placed on my third admin leave and was
12 issued a third derogatory report in my personnel records with a letter proposing to
13 remove me from federal service.
14

15 On September 11, 2020, petitioner was removed from federal service.
16

17 *On October 12, 2020, petitioner filed with counsel an appeal with the Merit*
18 *Systems Protection Board of his removal from Federal service. Case is on-going.*
19

20 On January 6, 2021, at 5:00 am as petitioner woke up to use the bathroom,
21 he heard the ring of a cellphone which was immediately closed, coming from the
22 side of his house.
23

24 On May 3, 2021. Petitioner has proof of surveillance when his dash camera
25 caught a drone deployed in front of his home. Video is available.
26

27 Petitioner would like to state for the record that the harassment, stalking, and
28 surveillance is on-going as I write this petition for writ of certiorari.
29

1 REASONS FOR GRANTING THE WRIT OF CERTIORARI

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4 This Court has granted certiorari in *In Katz v United States*, 389 U.S. 347
5 (1967), this court held that The Fourth Amendment's protection from unreasonable
6 search and seizure extends to any area where a person expects has a "reasonable
7 expectation of privacy."

8 This Court has also granted Certiorari in *Thole et al v U.S. Bank N.A. et al*,
9 17-1712. This court held that petitioners lacked Article III standing because they
10 lacked concrete and particularized injury.

11 This petition seeks review of the same questions presented in *Thole et al*,
12 when in this case Petitioner has clearly satisfied the three standing requirements for
13 Article III standing

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18 1. Injury-in-fact.

19 2. Causation.

20 3. Redressability.

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CONCLUSION

This petition for a writ of certiorari should be granted to address the issue of Locus Standi. The lack of legal standing is an oft used position by State and Government including represented respondents against non-represented petitioners to dismiss cases without discovery, given that facts will show the willful obstruction by known agents to withhold vital evidence, *Robert M. Cledera v U.S. Department of Justice, (2020)*.

Federal Rules of Civil Procedure 8(a)(2) provides in part:

A complaint must contain a “short and plain statement of claim, showing that the pleader is entitled to relief and detailed factual allegations are not required.”

In *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), this court has stated that the Constitution must always take precedence in any conflict between it and a law passed by Congress.

Respectfully submitted,

Robert Paul M. Cledera
7132 Playa Norte Dr
Grand Prairie, TX 75054